

Board of Chiropractic Examiners

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STUDY GUIDE FOR THE CHIROPRACTIC LAW AND PROFESSIONAL PRACTICE EXAMINATION

(Established February 1, 2004)

The following information is intended for use as a study guide for the Chiropractic Law and Professional Practice Examination (LPPE). The material contains the Chiropractic Initiative Act and Title 16, Division 4, California Code of Regulations. In addition, included are excerpts from the following statutes: Business and Professions Code, Code of Civil Procedure, Education Code, Health and Safety Code, Penal Code, Vehicle Code, and the Welfare and Institutions Code.

Additional study material can be found on the Board's web site under the caption "Fact Sheets", which were generated to provide general information in response to inquiries received by the Board.

The examination consists of 50 multiple-choice questions. Although this study guide is designed to provide information that will allow the selection of correct answers, it does not reflect the entire text of code sections for each statute. Complete language for any of the statutes listed above can be located at <http://www.leginfo.ca.gov/calaw.html>.

The purpose of the LPPE is to familiarize you with the laws and regulations that regulate the practice of chiropractic in California. After you receive your professional license, it will be **your responsibility** to keep current with any new or changing laws and regulations that govern your practice. A visit to the Board's website on a monthly basis at <http://www.chiro.ca.gov> will provide you with necessary updates as they occur. If, after researching the website, you have a question regarding the interpretation of a law or regulation, you should consult with an attorney. The Board **will not** provide you with interpretation of the law for any legal questions pertaining to practice issues or procedures.

The Board's role is to protect consumers against chiropractors that violate the law. The Board receives hundreds of complaints a year against licensed chiropractors. To ensure that you do not become a part of those statistics, it is essential that you are thoroughly familiar with all the statutes, the Initiative Act and the California Code of Regulations that govern chiropractic practice in this state.

DISCLAIMER

It is anticipated by the Board that the chiropractic applicant has reviewed the material provided on the Board's web site pertaining to the practice of chiropractic in California. Also, it is anticipated that the applicant is aware of the basic and reasonable standards of care as taught in chiropractic schools accredited by the Council on Chiropractic Education.

THE CHIROPRACTIC INITIATIVE ACT OF CALIFORNIA

Initiative measure approved by the electors
November 7, 1922, effective December 21, 1922.

An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation hereof, and repealing all acts and parts of acts inconsistent herewith.

This act cannot be codified by the Legislature because of the constitutional limitations on the powers of the Legislature with reference to them.

The people of the state of California do enact as follows:

§ 1. Board of examiners, membership, appointment, qualifications, per diem expenses

A board is hereby created to be known as the "State Board of Chiropractic Examiners," hereinafter referred to as the board. The board shall consist of seven members appointed by the Governor. Each member shall be a citizen of the United States and shall have been a resident of California for five years. Two members shall be public members. Each licensee member shall have had at least five years of licensure in this state prior to appointment. Each licensee member must have pursued a resident course in an approved chiropractic school or college, and must be a graduate thereof and hold a diploma therefrom.

Not more than two persons shall serve simultaneously as members of said board, whose first diplomas were issued by the same school or college of chiropractic, nor shall more than two members be residents of any one county of the state. And no person who is or within one year of the proposed appointment has been an administrator, policy board members, or paid employee of any chiropractic school or college shall be eligible for appointment to the board. Each member of the board shall receive a per diem in the amount provided in Section 103 of the Business and Professions Code for each day during which he is actually engaged in the discharge of his duties, together with his actual and necessary travel expenses incurred in connection with the performance of the duties of his office, such per diem, travel expenses and other incidental expenses of the board or of its members to be paid out of the funds of the board hereinafter defined and not from the state's taxes.

(Initiative Measure, Stats. 1923, p. 1xxxviii, § 1. Amended by Stats. 1959, c. 1768, p. 4252, § 1; Stats. 1961, c. 706, p. 1948, § 1; Stats. 1971, c. 1755, p. 3785, § 2; Stats. 1976, c. 263, p. 547, § 1.)

§ 2. Board of examiners, terms, removal of members

The Governor shall appoint the members of the board. Each appointment shall be for the term of four years, except that an appointment to fill a vacancy shall be for the unexpired term only. Each member shall serve until his successor has been appointed and qualified or until one year has elapsed since the expiration of his term whichever first occurs. No person shall serve more than two consecutive terms on the board nor be eligible for appointment thereafter until the expiration of four years from the expiration of such second consecutive term, effective January 2, 1974. The Governor may remove a member from the board after receiving sufficient proof of the inability or misconduct of said member.

(Initiative Measure, Stats. 1923, p. 1xxxix, § 2. Amended by Stats. 1971, c. 1755, p. 3785, § 3.)

§ 3. Organization; executive officer; quorum; vote required; records

The board shall elect a chairman and vice chairman and a secretary to be chosen from the members of the board. The board shall employ an executive officer and fix his salary with the approval of the Director of Finance. Elections of the officers shall occur annually at the January meeting of the board. A majority of the board shall constitute a quorum.

It shall require the affirmative vote of four members of said board to carry any motion or resolution, to adopt any rule, or to authorize the issuance of any license provided for in this act. The executive officer shall receive a salary to be fixed by the board, together with his actual and necessary traveling expenses incurred in connection with the performance of such duties as the board may deem proper. He shall keep a record of the

proceedings of the board, which shall at times during business hours be open to the public for inspection. He shall keep a true and accurate account of all funds received and of all expenditures incurred or authorized by the board, and on the first day of December of each year he shall file with the Governor or his designee, a report of all receipts and disbursements and of the proceedings of the board for the preceding fiscal year.

(Initiative Measure, Stats. 1923, p. 1xxxix, § 3. Amended by Stats. 1947, c. 151, p. 677, § 1, adopted Nov. 2, 1948; Stats. 1971, c. 1755, p. 3785, § 4.; Stats. 1976, c. 263, p. 548, § 2.)

§ 4. Powers of board

The board shall have power:

- (a) To adopt a seal, which shall be affixed to all licenses issued by the board.
- (b) To adopt from time to time such rules and regulations as the board may deem proper and necessary for the performance of its work, the effective enforcement and administration of this act, the establishment of educational requirements for license renewal, and the protection of the public. Such rules and regulations shall be adopted, amended, repealed and established in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.
- (c) To examine applicants and to issue and revoke licenses to practice chiropractic, as herein provided.
- (d) To summon witnesses and take testimony as to matters pertaining to its duties; and each member shall have power to administer oaths and take affidavits.
- (e) To do any and all things necessary or incidental to the exercise of the powers and duties herein granted or imposed.
- (f) To determine minimum requirements for teachers in chiropractic schools and colleges.
- (g) To approve chiropractic schools and colleges whose graduates may apply for licenses in this state. The following shall be eligible for approval:
 - (1) Any chiropractic school or college having status with the accrediting agency and meeting the requirements of Section 5 of this act and the rules and regulations adopted by the board.
 - (2) Any chiropractic school or college initially commencing instruction prior to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided such school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided such school or college attains status with the accrediting agency within a time period commencing on the effective date of this provision and ending March 1, 1980.
 - (3) Any chiropractic school or college initially commencing instruction subsequent to the effective date of the amendments to this section approved by the electors at the November, 1976, general election, provided such school or college meets the requirements of Section 5 of this act and the rules and regulations adopted by the board and provided such school or college attains status with the accrediting agency within a time period not exceeding three years following such commencement of instruction.

Upon submission of evidence satisfactory to the board that the accrediting agency has unreasonably denied status to a chiropractic school or college approved under paragraph (2) or (3) of this subdivision by not considering the application for status submitted by that school or college in a timely manner, by denying the application for status submitted by that school or college without good cause, or by imposing arbitrary and capricious additional requirements upon that school or college as conditions for the attainment of status, the board shall grant an extension of the time period for the attainment of status specified in the paragraph under which that school or college is approved, as it applies to that school or college, of at least six months but no more than one year. Prior to the

expiration of such extension or of any additional extension the board grants, the board shall determine whether that school or college has been unreasonably denied status by the accrediting agency for any of the reasons specified in the immediately preceding sentence during the extension. Should the board determine such unreasonable denial of status during the extension has occurred, the board shall grant an additional extension of the time period for the attainment of status, as it applies to that school or college, of at least six months but no more than one year.

As used in this section, “accrediting agency” means (1) the Accrediting Commission of the Council on Chiropractic Education, other chiropractic school and college accrediting agencies as may be recognized by the United States Commissioner of Education, or chiropractic school and college accrediting agencies employing equivalent standards for accreditation as determined by the board, (2) in the event such commission ceases to exist or ceases to be recognized by such commissioner, a chiropractic school and college accrediting agency as may be designated by the board or chiropractic school and college accrediting agencies employing equivalent Standards for accreditation as determined by the board, or (3) in the event such commission ceases to exist or ceases to be recognized by such commissioner, no other such accrediting agency is recognized by such commissioner, and no such accrediting agency is acceptable to the board, the board.

As used in this section, “status” means correspondent status, status as a recognized candidate for accreditation, accredited status, or other similar status as may be adopted and used by the accrediting agency.

As used in this section, “in a timely manner” means within the time deadlines as may be established by the accrediting agency for submission of applications, consideration of applications submitted, acceptance or rejection of applications submitted, and other similar functions, as those time deadlines are interpreted by the board.

As used in this section, “without good cause” means not in accordance with rules and regulations that may be established by the accrediting agency as conditions for the attainment of status, as those rules and regulations are interpreted by the board.

As used in this section, “arbitrary and capricious additional requirements” means requirements which may be imposed by the accrediting agency as conditions for the attainment of status during the time period specified for the attainment of status by a chiropractic school or college that, in the board’s judgment, cannot be satisfied within such time period or do not serve to improve the educational standards or quality of such school or college.

(h) The board may employ such investigators, clerical assistants, commissioners on examination and other employees as it may deem necessary to carry into effect the provisions of this act, and shall prescribe the duties of such employees.

(Initiative Measure, Stats. 1923, p. 1xxxix, § 4. Amended by Stats. 1947, c. 151, p. 677, § 2, adopted Nov. 2, 1948; Stats. 1970, c. 643, p. 1261, § 1; Stats. 1976, c. 263, p. 548, § 3; Stats. 1978, c. 307, p. 636, § 1.)

§ 5. License to Practice: Fee: Educational Requirements

License to Practice: Fee: Educational Requirements. It shall be unlawful for any person to practice chiropractic in this state without a license so to do. Any person wishing to practice chiropractic in this state shall make application to the board 45 days prior to any meeting thereof, upon such form and in such manner as may be provided by the board. Proof of graduation from an approved chiropractic school or college, as defined in Section 4, must reach the board 15 days prior to any meeting thereof. Each application must be accompanied by a licensee fee of not more than one hundred dollars (\$100), as determined by the board. Except in the cases herein otherwise prescribed, each applicant shall present to the board at the time of making such application a diploma from a high school and a transcript of 60 prechiropractic college credits satisfactory to the board, or proof, satisfactory to the board, of education equivalent in training power to such high school and college courses.

The schedule of minimum educational requirements to enable any person to practice chiropractic in this state is as follows, except as herein otherwise provided:

Group 1	
Anatomy, including embryology and histology	14%
Group 2	

Physiology	6%
Group 3	
Biochemistry and clinical nutrition	6%
Group 4	
Pathology and bacteriology	10%
Group 5	
Public health, hygiene and sanitation	3%
Group 6	
Diagnosis, dermatology, syphilology and geriatrics, and radiological technology, safety, and Interpretation	18%
Group 7	
Obstetrics and gynecology and pediatrics	3%
Group 8	
Principles and practice of chiropractic, physical therapy, psychiatry, and office procedures	<u>25%</u>
Total	85%
Electives	15%

Any applicant who had matriculated at a chiropractic college prior to the effective date of the amendments to this section submitted to the electors by the 1977-1978 Regular Session on the Legislature shall meet all requirements that existed immediately prior to the effective date of those amendments but need not meet the change in requirements made by said amendments.

(Initiative Measure, Stats. 1923, p. 1xxxix, § 5. Amended by Stats. 1947, c. 151, p. 678, § 3, adopted Nov. 2, 1948; Stats. 1960, c. 14, p. 135, § 1; Stats. 1975, c. 771, p. 1791, § 1.

§ 6. Board of examiners, meetings, offices, examinations

(a) The office of the board shall be in the City of Sacramento. Suboffices may be established in Los Angeles and San Francisco, and such records as may be necessary may be transferred temporarily to such suboffices. Legal proceedings against the board may be instituted in any one of the three cities.

(b) The board shall meet as a board of examiners at least twice each calendar year, at such times and places as may be found necessary for the performance of its duties.

(c) Examinations shall be written, oral, and practical, covering chiropractic as taught in chiropractic schools or colleges, designed to ascertain the fitness of the applicant to practice chiropractic. Said examination shall include at least each of the subjects as set forth in Section 5 hereof. Identity of the applicants shall not be disclosed to the examiners until after examinations have been given final grades. A license shall be granted to any applicant who shall make a general average of 75 percent, and not fall below 60 percent in more than two subjects or branches of the examination and receive a 75 percent score in all parts of the practical examination as designed by the board. Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further cost, take the examination at the next regular examination on the subject in which he failed. For each year of actual practice since graduation the applicant shall be given a credit of 1 percent on the general average.

(d) An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer such certificate together with a transcript of grades secured in said national board examination, and the California Board of Chiropractic Examiners may accept same in lieu of all or a portion of the California board examination as determined by the board.

(Initiative Measure, Stats. 1923, p. xc, § 6. Amended by Stats. 1971, c. 1755, p. 3786, § 5; Stats. 1976, c. 263, p. 550, § 5.)

§ 7. Certificate to practice; issuance; practice authorized

One form of certificate shall be issued by the board of chiropractic examiners, which said certificate shall be designated "License to practice chiropractic," which license shall authorize the holder thereof to practice chiropractic in the State of California as taught in chiropractic schools or colleges; and, also, to use all

necessary mechanical, and hygienic and sanitary measures incident to the care of the body, but shall not authorize the practice of medicine, surgery, osteopathy, dentistry or optometry, nor the use of any drug or medicine now or hereafter included in materia medica.

(Initiative Measure, Stats. 1923, p. xc, § 7.)

§ 8. Blind persons

No blind person shall be denied admission into any college or school of chiropractic or denied the right to take any examination given by such school or college or denied a diploma or certificate of graduation or a degree or denied admission into any examination for a state license or denied a regular license to practice chiropractic on the ground that he is blind.

(Formerly § 1000-8.1, added by Stats. 1949, c. 500, p. 859, § 1, adopted Nov. 7, 1950. Renumbered § 1000-8 and amended by Stats. 1971, c. 1755, p. 3787, § 7.)

§ 9. Issuance of licenses to licensees of other states

Notwithstanding any provision contained in any other section of this act, the board, upon receipt of the fee specified in Section 5, shall issue a license to any person licensed to practice chiropractic under the laws of another state, provided said state then had the same general requirements as required in this state at the time said license was issued, and provided that such other state in like manner grants reciprocal registration to chiropractic practitioners of this state.

The applicant shall also provide a certificate from the other state stating that he was licensed by that state, that he has not been convicted of unprofessional conduct, and that there is no charge of unprofessional conduct pending against him.

(Initiative Measure, Stats. 1923, p. xc, § 9. Amended by Stats. 1960, c. 14, p. 136, § 2, adopted Nov. 8, 1960. Amended by Stats. 1971, c. 1755, p. 3787, § 8.)

§ 10. Rules of professional conduct; denial, suspension or revocation of license; reissuance

(a) The board may by rule or regulation adopt, amend or repeal rules of professional conduct appropriate to the establishment and maintenance of a high standard of professional service and the protection of the public. Such rules or regulations shall be adopted, amended, or repealed in accordance with the provisions of Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature.

(b) The board may refuse to grant, or may suspend or revoke, a license to practice chiropractic in this state, or may place the licensee upon probation or issue a reprimand to him, for violation of the rules and regulations adopted by the board in accordance with this act, or for any cause specified in this act, including, but not limited to: The employment of fraud or deception in applying for a license or in passing an examination as provided in this act; the practice of chiropractic under a false or assumed name; or the personation of another practitioner of like or different name; a plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense substantially related to the practice of chiropractic; habitual intemperance in the use of ardent spirits, narcotics or stimulants to such an extent as to incapacitate him for the performance of his professional duties; the advertising of any means whereby the monthly periods of women can be regulated or the menses reestablished if suppressed; or the advertising, directly, indirectly or in substance, upon any card, sign, newspaper advertisement, or other written or printed sign or advertisement, that the holder of such license or any other person, company or association by which he or she is employed, or in whose services he or she is, will treat, cure, or attempt to treat or cure, any venereal disease, or will treat or cure, or attempt to treat or cure, any person afflicted with any sexual disease, for lost manhood, sexual weakness or sexual disorder or any disease of the sexual organs; or being employed by, or being in the service of any person, company or association so advertising. The proceedings for the refusal to grant, suspension or revocation of a license upon any of the foregoing grounds shall be conducted in accordance with chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code as it now reads or as it may be hereafter amended by the Legislature, and the board shall have all the powers granted therein. The secretary on all cases of revocation shall enter on his register the fact of such revocation, and shall certify the fact of such revocation under the seal of the board to the

county clerk of the counties in which the certificates of the person whose certificate has been revoked is recorded; and said clerk must thereupon write upon the margin or across the face of his register of the certificate of such person the following: "This certificate was revoked on the _____ day of _____," giving the day, month and year of such revocation in accordance with said certification to him by said secretary. The record of such revocation so made by said county clerk shall be prima facie evidence of the fact thereof, and of the regularity of all proceedings of said board in the matter of said revocation.

(c) At any time after two years following the revocation or cancellation of a license or registration under this section, the board may, by a majority vote, reissue said license to the person affected, restoring him to, or conferring on him all the rights and privileges granted by his original license or certificate. Any person to whom such rights have been restored shall pay to the secretary the fee specified in Section 5 upon the issuance of a new license.

(Initiative Measure, Stats. 1923, p. xci, § 10. Amended by Stats. 1947, c. 151, p. 679, § 4, adopted Nov. 2, 1948; Stats. 1960, c. 14, p. 136, § 3, adopted Nov. 8, 1960; Stats. 1970, c. 643, p. 1261, § 2; Stats. 1978, c. 307, p. 640, § 3.)

§ 11. Repealed by Stats. 1971, c. 1755, p. 3787, § 9

Historical and Statutory Notes

The repeal of Initiative Measure, Stats. 1923, p. xci, § 11, approved by the electors Nov. 7, 1922, was approved by the electors at the election held June 6, 1972.

The repealed section required recordation of licenses and required a list of licensees be kept by the county clerk, which list was to be open to public inspection.

§ 12. Renewal fee

Licenses issued under the provisions of this section expire at 12 midnight on the last day of the month of birth of licentiates of the board.

On or before July 1, 1991, the board shall establish regulations for the administration of a birth month renewal program. Each person practicing chiropractic within this state shall, on or before the last day of their month of birth of each year, after a license is issued to them as herein provided, pay to the Board of Chiropractic Examiners a renewal fee of not more than one hundred fifty dollars (\$150) as determined by the board. The secretary shall mail to all licensed chiropractors in this state, on or before 60 days prior to the last day of the month of their birth each year, a notice that the renewal fee will be due on or before the last day of the month of their birth next following. Nothing in this act shall be construed to require the receipts to be recorded in like manner as original licenses. The failure, neglect or refusal of any person holding a license or certificate to practice under this act in the State of California to pay the annual fee during the time their license remains in force shall, after a period of 60 days from the last day of the month of their birth automatically work a forfeiture of his or her license or certificate, and it shall not be restored except upon the written application therefor and the payment to the board of a fee of twice the annual amount of the renewal fee in effect at the time the restoration application is filed except that a licentiate who fails, refuses or neglects to pay the annual tax within a period of 60 days after the last day of the month of his or her birth of each year shall not be required to submit to an examination for the reissuance of the certificate.

(Initiative Measure, Stats. 1923, p. xcii, § 12. Amended by Stats. 1947, c. 151, p. 680, § 5, adopted Nov. 2, 1948; Stats. 1960, c. 14, p. 137, § 4, adopted Nov. 8, 1960; Stats. 1975, c. 771, p. 1792, § 2, eff. Sept. 16, 1975; Stats. 1978, c. 306, p. 635, § 2, eff. June 29, 1978; Stats. 1983, c. 533, § 2, eff. July 28, 1983; Stats. 1988, c. 1094, § 1.)

§ 12.5. Authority of legislature to fix fees payable by applicants and licensees and per diem compensation of Board of Chiropractic

The Legislature may by law fix the amounts of the fees payable by applicants and licensees and the amount of the per diem compensation payable to members of the board.

(Added by Stats. 1959, c. 1768, p. 4253, § 2.)

§ 13. Health regulations, death certificates, reports

Chiropractic licentiates shall observe and be subject to all state and municipal regulations relating to all matters pertaining to the public health, and shall sign death certificates and made reports as required by law to the proper authorities, and such reports shall be accepted by the officers of the departments to which the same are made. (Initiative Measure, Stats. 1923, p. xcii, § 13.)

§ 14. Receipts; deposit; monthly report; state board of chiropractic examiners' fund; use

The executive officer shall at the end of each month report to the State Controller the total amount of money received by the board from all sources, and shall deposit with the State Treasurer the entire amount of such receipts, and the State Treasurer shall place the money so received in a special fund, to be known as the "State Board of Chiropractic Examiners' Fund". Such fund shall be expended in accordance with law for all necessary and proper expenses in carrying out the provisions of this act, upon proper claims approved by said board or a finance committee thereof.

(Initiative Measure, Stats. 1923, p. xcii, § 14. Amended by Stats. 1971, c. 1755, p. 3787, § 10.)

§ 15. Noncompliance with and violations of act

Any person who shall practice or attempt to practice chiropractic, or any person who shall buy, sell or fraudulently obtain a license to practice chiropractic, whether recorded or not, or who shall use the title "chiropractor" or "D.C." or any word or title to induce, or tending to induce belief that he or she is engaged in the practice or chiropractic, without first complying with the provisions of this act; "(or any licensee under this act who uses the word "doctor" or the prefix "Dr." without the word "chiropractor," or "D.C." immediately following his or her name) or the use of the letters "M.D." or the words "doctor of medicine," or the term "surgeon," or the term "physician," or the word "osteopath," or the letters "D.O." or any other letters, prefixes or suffixes, the use of which would indicate that he or she was practicing a profession for which he or she held no license from the State of California, or any person who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one hundred dollars (\$100) and not more than seven hundred fifty dollars (\$750), or by imprisonment in the county jail for not more than six months, or by both fine and imprisonment.

(Initiative Measure, Stats. 1923, p. xcii, § 15. Amended by Stats. 1988, c. 1094, § 2.)

§ 16. Exceptions to application of act; construction of act

Nothing in this act shall be construed to prohibit service in case of emergency, or the domestic administration of chiropractic, nor shall this act apply to any chiropractor from any other state or territory who is actually consulting with a licensed chiropractor in this state; provided, that such consulting chiropractor shall not open an office or appoint a place to receive patients within the limits of the state; nor shall this act be construed so as to discriminate against any particular school of chiropractic, or any other treatment; nor to regulate, prohibit or apply to any kind of treatment by prayer; nor to interfere in any way with the practice of religion. Nor shall this act apply to persons who are licensed under other acts.

(Initiative Measure, Stats. 1923, p. xcii, § 16.)

§ 17. Enforcement of act

It shall be the duty of the board to aid attorneys and law enforcement agencies in the enforcement of this act.

(Initiative Measure, Stats. 1923, p. xciii, § 17. Amended by Stats. 1971, c. 1755, p. 3787, § 11.)

§ 18. Repeal of conflicting provisions in medical practice act

Nothing herein shall be construed as repealing the "medical practice act" of June 2, 1913, or any subsequent amendments thereof, except in so far as that act or said amendments may conflict with the provisions of this act as applied to persons licensed under this act, to which extent any and all acts or parts of acts in conflict herewith are hereby repealed.

(Initiative Measure, Stats. 1923, p. xciii, § 18.)

§ 19. Severability

If any section, subsection, sentence, clause or phrase of this act is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion of this act. The electors hereby declare that they would have passed this act, and each section, subsection, sentence, clause and phrase thereof, irrespective of the fact that any one or more other sections, subsections, sentences, clauses or phrases be declared unconstitutional.

(Initiative Measure, Stats. 1923, p. xciii, § 19.)

§ 20. Intent of the amendments approved by the electors at the November 1978, general election

Intent of the amendments approved by the electors at the November 1978, general election. In approving the amendments to this act submitted to the electors at the November 1978, general election, it is the intent of the people of the State of California to respond to a decision of the Superior Court of the County of Los Angeles which held that the board's interpretation of the amendments to this act approved by the electors at the November 1976, general election did not reasonably provide adequate opportunity for two chiropractic colleges then instructing students in California to apply for an obtain status as Recognized Candidates for Accreditation by the Accrediting Commission of the Council on Chiropractic Education. The people deem the amendments to the act approved by the electors at the November 1978, general election to reasonably provide adequate opportunity for the two chiropractic colleges which were the subject of the aforementioned decision, other chiropractic schools and colleges instructing students as of the effective date of the amendments to this act approved by the electors at the November 1976, general election, and chiropractic schools and colleges which may be established and commence instruction following the effective date of the amendments to this act approved by the electors at the November 1976, general election, to attain status with the accrediting agency, as those terms are defined in subdivision (g) of Section 4. All courts shall be guided by this statement of intent in any decisions they may render relative to this act, but nothing in this act shall be construed to proscribe judicial review of any actions of the board relative to the administration and enforcement of this act.

(Added by Stats. 1978, c. 307, p. 641, § 4.)

Title 16, Division 4
California Code of Regulations
Board of Chiropractic Examiners

Article 1. General Provisions

§301. Tenses, Gender and Number.

For the purpose of the rules and regulations contained in this chapter, the present tense includes the past and future tenses, and the future, the present; the masculine gender includes the feminine, and the feminine, the masculine; and the singular includes the plural, and the plural, the singular.

§302. Practice of Chiropractic.

(a) Scope of Practice.

(1) A duly licensed chiropractor may manipulate and adjust the spinal column and other joints of the human body and in the process thereof a chiropractor may manipulate the muscle and connective tissue related thereto.

(2) As part of a course of chiropractic treatment, a duly licensed chiropractor may use all necessary mechanical, hygienic, and sanitary measures incident to the care of the body, including, but not limited to, air, cold, diet, exercise, heat, light, massage, physical culture, rest, ultrasound, water, and physical therapy techniques in the course of chiropractic manipulations and/or adjustments.

(3) Other than as explicitly set forth in section 10(b) of the Act, a duly licensed chiropractor may treat any condition, disease, or injury in any patient, including a pregnant woman, and may diagnose, so long as such treatment or diagnosis is done in a manner consistent with chiropractic methods and techniques and so long as such methods and treatment do not constitute the practice of medicine by exceeding the legal scope of chiropractic practice as set forth in this section.

(4) A chiropractic license issued in the State of California does not authorize the holder thereof:

(A) to practice surgery or to sever or penetrate tissues of human beings, including, but not limited to severing the umbilical cord;

(B) to deliver a human child or practice obstetrics;

(C) to practice dentistry;

(D) to practice optometry;

(E) to use any drug or medicine included in materia medica;

(F) to use a lithotripter;

(G) to use ultrasound on a fetus for either diagnostic or treatment purposes; or

(H) to perform a mammography.

(5) A duly licensed chiropractor may employ the use of vitamins, food supplements, foods for special dietary use, or proprietary medicines, if the above substances are also included in section 4057 of the Business and Professions Code, so long as such substances are not included in materia medica as defined in section 13 of the Business and Professions Code.

The use of such substances by a licensed chiropractor in the treatment of illness or injury must be within the scope of the practice of chiropractic as defined in section 7 of the Act.

(6) Except as specifically provided in section 302(a)(4), a duly licensed chiropractor may make use of X-ray and thermography equipment for the purposes of diagnosis but not for the purposes of treatment. A duly licensed chiropractor may make use of diagnostic ultrasound equipment for the purposes of neuromuscular skeletal diagnosis.

(7) A duly licensed chiropractor may only practice or attempt to practice or hold himself or herself out as practicing a system of chiropractic. A duly licensed chiropractor may also advertise the use of the modalities authorized by this section as a part of a course of chiropractic treatment, but is not required to use all of the diagnostic and treatment modalities set forth in this section. A chiropractor may not hold himself or herself out as being licensed as anything other than a chiropractor or as holding any other healing arts license or as practicing physical therapy or use the term “physical therapy” in advertising unless he or she holds another such license.

(b) Definitions.

(1) Board. The term “board” means the State Board of Chiropractic Examiners.

(2) Act. The term “act” means the Chiropractic Initiative Act of California as amended.

Note: The Chiropractic Initiative Act of California is listed in West's Annotated California Codes following section 1000 of the Business and Professions Code, and in Deering's California Codes Annotated as an appendix to the Business and Professions Code.

(3) Duly licensed chiropractor. The term “duly licensed chiropractor” means any chiropractor in the State of California holding an unrevoked certificate to practice chiropractic, as that term is defined in section 7 of the Act, that has been issued by the board.

§303. Filing of Addresses.

Each person holding a license to practice chiropractic in the State of California under any and all laws administered by the board shall file his proper and current place of practice address of his principal office and, where appropriate, each and every sub-office, with the board at its office in Sacramento and shall immediately notify the board at its said office of any and all changes of place of practice address, giving both his old and his new address within 30 days of change.

§304. Discipline by Another State.

The revocation, suspension, or other discipline by another state of a license or certificate to practice chiropractic, or any other health care profession for which a license or certificate is required, shall constitute grounds for disciplinary action against a chiropractic licensee or grounds for the denial of chiropractic licensure of an applicant in this state.

§305. Procedure in Disciplinary Proceedings.

All proceedings relating to the refusal to grant, suspension or revocation of a license to practice chiropractic, or for the reissuance or reinstatement of a license which has been suspended or revoked, or for the disciplining of licensees in any manner other than by a Chiropractic Quality Review Panel, shall be conducted in accordance with the provisions of Section 11500 et seq. of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code.

§306. Delegation of Certain Functions.

The power and discretion of the board to receive and file accusations; issue notices of hearing, statements to respondent, statements of issues, subpoenas, and subpoenas duces tecum; receive and file notices of defense; set and calendar cases for hearing; certify and deliver or mail copies of decisions; and perform other functions necessary to expedite the business of the board in connection with the conduct of the proceedings mentioned in Section 305 hereof in accordance with the provisions of Chapter 5 of Part 1 of Division 3 of Title 2 of the Government Code, are hereby delegated to the Executive Director.

§306.1. Chiropractic Quality Review Panel (CQRP).

The board shall establish a Chiropractic Quality Review Panel (CQRP) by county throughout California to hear cases referred by the board's executive director.

(a) The authority and duties of CQRP's are:

- (1) To review chiropractic care provided by California licensees.
- (2) To act on all matters assigned to it by the board's executive director.
- (3) To inspect all chiropractic records where reasonable cause exists to initiate a quality review.

(b) The composition and purpose of CQRP's are as follows:

- (1) Each panel shall be composed of three licensees appointed by the board.
- (2) Each panel member shall have at least 5 years experience practicing chiropractic in California.
- (3) Each panel member shall have no disciplinary action against their license.
- (4) The purpose of the CQRP is to review specific complaints and where appropriate to provide recommendations of continuing education and to strengthen aspects of the licensee's chiropractic practice.

(A) The "continuing education" recommendations are limited to specific continuing education seminars required by licensees.

(B) "Recommendations to strengthen aspects of a licensee's practice" will be a panel recommendation consistent with chiropractic standards of care in California.

(c) CQRP Hearing Procedures are as follows:

- (1) A closed panel hearing shall be conducted with a court reporter.
- (2) Any licensee required to appear before a panel will be notified by certified mail with a summary of the specific complaint together with supporting documents at least 30 days prior to the scheduled panel hearing.
- (3) When requested by the panel, licensees shall present to the panel all patient treatment records relevant to the specific complaint as required by California Code of Regulations, Title 16, Section 318.
- (4) The failure to present all requested patient records authorizes the panel to presume that the information in the records is adverse to the licensee.
- (5) The licensee may bring in any witnesses and documents to assist in responding to the complaint.

(6) The licensee may have counsel present during the panel hearing.

(7) The licensee will be given an adequate opportunity to respond to any questions by the panel.

(8) A postponement of the scheduled panel hearing may be granted by the board's executive director upon a showing of good cause made at least 10 days prior to the scheduled hearing.

(9) The failure of a licensee to appear, without good cause, constitutes grounds for a recommendation to the executive director for filing of a disciplinary action, or further investigation.

(d) CQRP report procedures:

(1) At the conclusion of the CQRP hearing the panel shall prepare a written report based on the evidence presented at the panel hearing with specific recommendations regarding the licensee and/or the licensee's practice.

Panel recommendations are the following:

(A) Continuing education seminars in related field;

(B) Recommendations that would strengthen aspects of licensee's chiropractic practice;

(C) Further investigation;

(D) Refer case to Office of Attorney General for preparation of formal disciplinary action;

(E) Close case with warning;

(F) Close case without warning;

(G) Dismiss complaint.

(2) The report and recommendations shall go directly to the board's executive director.

(3) Any departure from accepted chiropractic procedures or practices shall be outlined in this written panel report with the recommendations from subsection (d)(1)(A)-(G) deemed necessary by a vote of a majority of the three member panel.

(4) All panel recommendations are subject to approval by the board's executive director without further input from the licensee. The executive director shall prepare a final report, which shall include all approved recommendations, and send a copy of the final report to the licensee and panel members.

(5) The evidence presented at the panel hearing shall be submitted to the board office. All evidence used by the panel is admissible in any subsequent disciplinary proceeding against a licensee.

(e) The procedures for appealing the final CQRP report are as follows:

(1) The panel report is reviewed by the board's executive director. After the review, the final report is sent to the licensee. The licensee has 30 days from receipt of the report to file a written appeal with the board.

(2) The appeal shall be considered by a committee of the board consisting of no more than three members.

(3) If the committee grants the appeal a final decision shall be prepared and returned to the executive director for distribution to the licensee and panel members.

(4) If the board's committee denies the appeal, the final report becomes a final decision after 30 days.

(5) The licensee may appeal the final decision by filing a writ of mandate pursuant to California Code of Civil Procedure, Section 1094.5. The writ of mandate shall be filed in a Superior Court in Los Angeles, San Francisco, or Sacramento counties.

§306.2. Persons Not Employees Hired Under Contract with the Board.

If a person, not a regular employee of the board, is hired or is under contract to provide expertise or to perform investigations for the Board of Chiropractic Examiners in the evaluation of the conduct of a licensee or administration of a board examination, and such person is named as a defendant in a civil action directly resulting from opinions rendered, statements made, investigations conducted or testimony given, the board shall provide for representation required to defend the defendant in that civil action. The board shall not be liable for any judgment rendered against that person. The Attorney General shall be utilized in those civil actions.

§306.3. Investigators; Authority to Inspect Premises.

The board or its designee may inspect the physical premises of any chiropractic office during regular business hours.

§307. Refund of Fees.

The board is not authorized or permitted by law to return any portion of the license application fee of a qualified applicant.

§308. Display of License.

(a) Each person holding a license shall display a current active license in a conspicuous place in the licensee's principal office or primary place of practice.

(b) Any licensed Doctor of Chiropractic with more than one place of practice shall obtain from the Board a Satellite Office Certificate for each additional place of practice. Said certificate must be renewed annually.

(c) A licensed Doctor of Chiropractic must display in a conspicuous place a current active Satellite Office Certificate at the office for which it was issued.

No licensed Doctor of Chiropractic shall display any chiropractic license, certificate or registration, which is not currently active and valid.

§309. Posting of Notice of Revocation or Suspension.

HISTORY:

1. New section filed 7-7-78; effective thirtieth day thereafter (Register 78, No. 27).
2. Repealer filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

Article 2. Practice of Chiropractic

§310. Change of Name.

Any licensee who shall change his name according to the law, shall, within 10 days of such change, reregister his name with the Executive Director of the board by submitting to the board office a written statement of the change and evidence of legal documentation.

§310.1. Replacement License.

Any licensee shall be entitled to a replacement license if his original license is lost, stolen or mangled, or upon written request and legal documentation of name change. Each request for a replacement license must be accompanied by a nonrefundable fee of \$25.00, and signed written statement as to the circumstances of loss of said license, or the return to the board office of the mangled license.

§310.2. Use of Title by Unlicensed Persons.

No person shall engage in the practice of chiropractic, as defined in Section 302, without holding a license which is in an active status, issued by the Board.

Any person who advertises or promotes, in any manner, the words “doctor” or “chiropractor”, the letters, prefixes or suffixes “Dr.” or “D.C.”, or any other word, title or letters indicating or implying that he or she is engaged in the practice of chiropractic, or who represents or holds himself or herself out as a doctor of chiropractic without having, at the time of so doing, a valid, unrevoked, or unsurrendered license, is in violation of the Chiropractic Initiative Act.

§311. Advertisements.

Constructive educational publicity is encouraged, but the use by any licensee of advertising which contains misstatements, falsehoods, misrepresentations, distorted, sensational or fabulous statements, or which is intended or has a tendency to deceive the public or impose upon credulous or ignorant persons, constitutes grounds for the imposition of any of the following disciplinary penalties:

- (a) Suspension of said licensee's right to practice in this State for a period not exceeding one (1) year.
- (b) Placing said licensee upon probation.
- (c) Taking such other action, excepting the revocation of said licensee's license, in relation to disciplining said licensee as the board in its discretion may deem proper.

§312. Illegal Practice.

Unlicensed individuals are not permitted to diagnose, analyze, or perform a chiropractic adjustment. An “unlicensed individual” is defined as any person, including a student or graduate of a chiropractic institution, who does not hold a valid California chiropractic license. An exemption is hereby created for student doctors participating in board approved preceptorship programs.

The permitted activities of unlicensed individuals are as follows:

- (a) Unlicensed individuals may take the history of a patient. However, this activity is separate from the consultation which at all times must be conducted by the licensed doctor.
- (b) Unlicensed individuals may conduct standard neurological, orthopedic, physical and chiropractic examinations, except they may not perform such examinations which require diagnostic or analytic interpretations nor may they render a conclusion either verbally or in writing regarding the patient's physical condition. As an example, unlicensed individuals may not perform evaluations of heart or lung soundings. Such individuals shall be at all times under the immediate and direct supervision of a licensed Doctor of Chiropractic.

“Immediate and direct supervision” means the licensed Doctor of Chiropractic shall be at all times on the premises where the examinations are being conducted. The licensed Doctor of Chiropractic shall be responsible for the verification of the recorded findings and will be solely responsible for rendering a conclusion based on the findings.

(c) Unlicensed individuals may administer physical therapy treatments as an adjunct to chiropractic adjustment, provided the physical therapy treatment is conducted under the adequate supervision of a licensed Doctor of Chiropractic.

Adequate supervision shall include all of the following:

(1) The doctor shall be present in the same chiropractic facility with the unlicensed individual at least fifty percent of any work week or portion thereof the said individual is on duty unless this requirement has been waived by the board. The doctor shall be readily available to the said individual at all other times for advice, assistance and instruction.

(2) The doctor shall initially examine and prepare a written treatment program for a patient prior to the providing of physical therapy treatment by the unlicensed individual.

(3) The doctor shall provide periodic reevaluation of the treatment program and of the individual's performance in relation to the patient. "Periodic reevaluation" shall mean at least once every thirty days the patient is under active care.

(4) The doctor shall perform and record an evaluation of the patient and his or her response to treatment at the termination thereof.

(d) Unlicensed individuals may mark X-ray films administered by a Doctor of Chiropractic. "Marking X-rays" is defined as drawing and measuring between reference points and making angular and linear measurements. Unlicensed individuals are not permitted to make any diagnostic conclusions or chiropractic analytical listings, and the licensed doctor is responsible for any pathological entities covered or obstructed by the markings.

(e) Unlicensed individuals may not administer X-rays unless they hold a valid X-ray technician certificate from the Department of Health Services, or participate under the direct supervision of a licensed Doctor of Chiropractic in a training program approved by that department and set forth in Section 25668.1 of the California Health and Safety Code. This prohibition, set forth in Section 30403 of Title 17 of the California Administrative Code includes the following activities:

(1) Positioning of patient;

(2) Setting up of X-ray machines;

(3) Pushing a button;

(4) Developing of films. The Department of Health Services has determined that unlicensed individuals may develop X-ray film if that is their sole radiologic responsibility.

Unlicensed individuals who exceed the permitted scope of practice set forth in this regulation shall be in violation of Section 15 of the Chiropractic Act and shall be prohibited from applying for a California chiropractic license for such time as may be determined by the board. Student doctors participating in board approved preceptorship programs are not to be considered "unlicensed individuals" when working in said program.

§312.1. Ownership of a Chiropractic Practice.

No unlicensed individual may own a chiropractic practice regardless of the form in which the practice is established (individual ownership, partnership, corporation, etc.). This does not preclude a layperson from owning the facilities in which the practice is conducted, and the equipment provided. It does prohibit a layperson from being in a position of making and/or influencing decisions relating to diagnosis, or treatment of patients which are matters requiring chiropractic licensure.

§312.2. Ownership of Practice upon the Death or Incapacity of a Licensee.

In the event of the death of a chiropractic licensee, or the legal declaration of the mental incompetency of the licensee to practice, the unlicensed heirs or trustees of the chiropractor must dispose of the practice within six (6) months. At all times during that period the practice must be supervised by a licensed chiropractor. The board will consider a petition to extend this period if it is submitted within four (4) months after the death or the declaration of incompetence of the licensee, including identification of any extenuating circumstances that will prevent compliance.

§313. Inducing Student to Practice Chiropractic.

No licensee of chiropractic in the State of California shall offer or cause to be offered to a student or prospective student of chiropractic any promise or inducement, either written or verbal, which may induce said student or prospective student to believe he or she, during the freshman, sophomore, junior or senior years, or within the time that he or she shall be a student in, and/or before graduation from chiropractic school or college, and/or before receiving a license from the board, may be legally employed in any chiropractic private office, or chiropractic school or college, to practice chiropractic, with or without compensation, and no student shall accept or rely upon any such promise or understanding except that junior or senior students only may, for professional instruction, be assigned to regular clinic practice, during regular clinic hours, in the clinic conducted upon the premises of a regularly incorporated chiropractic school or college, and then only when said clinic is in charge of a duly licensed chiropractor as clinic instructor. This section does not apply to students and doctors who participate in preceptorship programs sponsored by chiropractic institutions holding status with the Council on Chiropractic Education or seeking such status. Violation of this rule by any student shall be deemed to be also a violation of Section 312 hereof.

§314. Law Violators.

It shall be the duty of every licensee to notify the secretary or any member of the board, of any violation of the act, or of these rules and regulations, in order that the board may take appropriate disciplinary action.

§315. Mental Illness.

(a) Administrative Adjudication. The proceedings under this regulation shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, and the board shall have all the powers granted therein.

(b) Psychiatric Examinations. When reasonable cause exists that a person holding a license under this Act is mentally ill to the extent that it may affect his ability to conduct with safety to the public the practice authorized by such license, the board may order the license holder to be examined by one or more physicians specializing in psychiatry designated by the board. The report of such persons shall be made available to the license holder and may be received as direct evidence in a proceeding conducted pursuant to subsection (c) of this regulation.

(c) Probation, Suspension, etc., in Event of Mental Illness; Reinstatement. If a license holder has been found to be mentally ill by one or more physicians specializing in psychiatry designated by the board, the results of which indicates that such illness does effect his ability to conduct, with safety, the practice authorized by his license, the board may take action, in accordance with subdivision (a) of this regulation, by any one of the following methods:

- (1) Placing him on probation.
- (2) Suspending his right to practice for a period not exceeding one year.
- (3) Revoking his license.
- (4) Taking such other action in relation to his license as the board in its discretion deems proper.

The board shall not restore such license to good standing until it shall receive competent evidence, from one or more physicians specializing in psychiatry, designated by the board, of the absence or control of the condition which caused its action and until it is satisfied that with due regard to the public interest the licensee's right to practice may be safely reinstated.

Before reinstating such a person, the board may require the person to pass an oral or written examination, or both, to determine his present fitness to resume his practice.

(d) Conditions of Reinstatement. In setting aside action taken under subsection (c) of this regulation, the board may impose terms and conditions to be followed by the license holder after his license has been reinstated. The authority of the board to impose terms and conditions includes, but is not limited to, the following:

(1) Requiring the license holder to obtain additional professional training and to pass an examination upon the completion of the training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the board.

(2) Requiring the license holder to submit to a complete diagnostic examination by one or more physicians appointed by the board. If the board requires the certificate holder to submit to such an examination, the board shall receive and consider any other report of a complete diagnostic examination given by one or more physicians of the license holder's choice.

(3) Setting any other requirement the board in its discretion deems proper.

§316. Responsibility for Conduct on Premises.

(a) Every licensee is responsible for the conduct of employees or other persons subject to his supervision in his place of practice, and shall insure that all such conduct in his place of practice conforms to the law and to the regulations herein.

(b) Where a chiropractic license is used in connection with any premises, structure or facility, no sexual acts or erotic behavior involving patients, patrons or customers, including, but not necessarily limited to, sexual stimulation, masturbation or prostitution, shall be permitted on said premises, structure or facility.

(c) The commission of any act of sexual abuse, sexual misconduct, or sexual relations by a licensee with a patient, client, customer or employee is unprofessional conduct and cause for disciplinary action. This conduct is substantially related to the qualifications, functions, or duties of a chiropractic license.

This section shall not apply to sexual contact between a licensed chiropractor and his or her spouse or person in an equivalent domestic relationship when that chiropractor provides professional treatment.

§317. Unprofessional Conduct.

The board shall take action against any holder of a license who is guilty of unprofessional conduct which has been brought to its attention, or whose license has been procured by fraud or misrepresentation or issued by mistake.

Unprofessional conduct includes, but is not limited to, the following:

(a) Gross negligence;

(b) Repeated negligent acts;

(c) Incompetence;

(d) The administration of treatment or the use of diagnostic procedures which are clearly excessive as determined by the customary practice and standards of the local community of licensees;

- (e) Any conduct which has endangered or is likely to endanger the health, welfare, or safety of the public;
- (f) The administering to oneself, of any controlled substance, or the use of any dangerous drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to oneself, or to any other person or to the public, or to the extent that the use impairs the ability of the person to conduct with safety to the public the practice authorized by the license;
- (g) Conviction of a crime which is substantially related to the qualifications, functions or duties of a chiropractor;
- (h) Conviction of any offense, whether felony or misdemeanor, involving moral turpitude, dishonesty, physical violence or corruption. The board may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction was of an offense involving moral turpitude, dishonesty, physical violence or corruption. A plea or verdict of guilty, or a plea of nolo contendere is deemed to be a conviction within the meaning of the board's disciplinary provisions, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code. The board may order a license to be suspended or revoked, or may decline to issue a license upon the entering of a conviction or judgement in a criminal matter.
- (i) The conviction of more than one misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug or alcoholic beverage, or any combination of those substances.
- (j) The violation of any of the provisions of law regulating the dispensing or administration of narcotics, dangerous drugs, or controlled substances;
- (k) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a license holder, or otherwise;
- (l) Knowingly making or signing any certificate or other document relating to the practice of chiropractic which falsely represents the existence or nonexistence of a state of facts;
- (m) Violating or attempting to violate, directly or indirectly, or assisting in or abetting in the violation of, or conspiring to violate any provision or term of the Act or the regulations adopted by the board thereunder;
- (n) Making or giving any false statement or information in connection with the application for issuance of a license;
- (o) Impersonating an applicant or acting as a proxy for an applicant in any examination required by the board for the issuance of a license or certificate;
- (p) The use of advertising relating to chiropractic which violates section 17500 of the Business and Professions Code;
- (q) The participation in any act of fraud or misrepresentation;
- (r) Except as may be required by law, the unauthorized disclosure of any information about a patient revealed or discovered during the course of examination or treatment;
- (s) The employment or use of persons known as cappers or steerers to obtain business;
- (t) The offering, delivering, receiving or accepting of any rebate, refund, commission, preference, patronage, dividend, discount or other consideration as compensation or inducement for referring patients to any person;
- (u) Participation in information or referral bureaus which do not comply with section 317.1 of the regulations;
- (v) Entering into an agreement to waive, abrogate, or rebate the deductible and/or co-payment amounts of any insurance policy by forgiving any or all of any patient's obligation for payment thereunder, when used as an

advertising and/or marketing procedure, unless the insurer is notified in writing of the fact of such waiver, abrogation, rebate, or forgiveness in each such instance.

In all insurance billings where a waiver of a deductible or a co-payment is intended as an advertising and/or marketing procedure, the chiropractor's statement and insurance billing shall contain the following statement:

I/WE WAIVE CO-PAYMENT AND/OR DEDUCTIBLES. IT IS MY/OUR INTENTION TO DO THE FOLLOWING: (Indicate one choice below)

() BILL THE PATIENT \$_____ AFTER RECEIPT FROM YOU OF \$_____ .

() WAIVE ANY FURTHER PAYMENT FROM THE PATIENT AFTER RECEIPT FROM YOU OF \$_____ .

() IN CASES WHERE PREDETERMINATION OF INSURANCE BENEFITS IS NOT POSSIBLE, I/WE PROVIDE THE FOLLOWING WRITTEN EXPLANATION OF MY/OUR BILLING INTENTIONS:

(w) Not referring a patient to a physician and surgeon or other licensed health care provider who can provide the appropriate management of a patient's physical or mental condition, disease or injury within his or her scope of practice, if in the course of a diagnostic evaluation a chiropractor detects an abnormality that indicates that the patient has a physical or mental condition, disease, or injury that is not subject to appropriate management by chiropractic methods and techniques. This subsection shall not apply where the patient states that he or she is already under the care of such other physician and surgeon or other licensed health care provider who is providing the appropriate management for that physical or mental condition, disease, or injury within his or her scope of practice.

(x) The offer, advertisement, or substitution of a spinal manipulation for vaccination.

(y) [Reserved]

(z) [Reserved]

§317.1. Chiropractic Referral Services.

Chiropractic referral services shall conform to the following:

(1) A referral bureau shall be made up of at least five doctors, each of whom does not have fiduciary relationship one to the other, with one participating office representing no more than 20 percent of the bureau's available practitioners. The board will consider any extenuating circumstances which will prevent a service from complying with these requirements;

(2) An application shall be filed with the board office which has been approved by the board, and properly identifies the service, structure and members;

(a) A nonrefundable application fee of \$25.00 shall be submitted with the referral service application.

(3) A telephone number shall be for a separate answering service;

(4) The answering service of the bureau shall refer the caller to the next doctor on the list on a rotating basis. The following are exceptions:

(a) A request for a specialist;

(b) Geographic considerations;

(c) Request for services in a language other than English.

(5) Records on each referral shall be kept and include the following:

(a) Date of referral;

(b) Name and address of patient;

(c) Name and address of doctor referred to.

(6) When a 24-hour emergency referral service is offered, a member of the group shall be available.

§317.5. Investigation and Enforcement Costs; Payment by Licentiate.

(a) In any order in resolution of a disciplinary proceeding before the Board of Chiropractic Examiners, the board may request the administrative law judge to direct a licentiate found to have committed a volition or violations of the Chiropractic Initiative Act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case.

(b) A certified copy of the actual costs, or a good faith estimate of costs where actual costs are not available, signed by the board bringing the proceeding or its designated representative shall be prima facie evidence of reasonable costs of investigation and prosecution of the case. The costs shall include the amount of investigative and enforcement costs up to the date of the hearing, including, but not limited to, charges imposed by the Attorney General.

(c) The administrative law judge shall make a proposed finding of the amount of reasonable costs of investigation and prosecution of the case when requested pursuant to subdivision (a). The board may reduce or eliminate the cost award, or remand to the administrative law judge where the proposed decision fails to make a finding on costs requested pursuant to subdivision (a).

(d) Where an order for recovery of costs is made and timely payment is not made as directed in the board's decision, the board may enforce the order for repayment in any appropriate court. This right of enforcement shall be in addition to any other rights the board may have as to any licentiate to pay costs.

(e) In any action for recovery of costs, proof of the board's decision shall be conclusive proof of the validity of the order of payment and the terms for payment.

(f)(1) Except as provided in paragraph (2), the board shall not renew or reinstate any license of any licentiate who has failed to pay all of the costs ordered under this section.

(2) Notwithstanding paragraph (1), the board may, in its discretion, conditionally renew or reinstate for a maximum of one year the license of any licentiate who demonstrates financial hardship and who enters into a formal agreement with the board to reimburse the board within that one-year period for the unpaid costs.

(g) All costs recovered under this section shall be considered a reimbursement for costs incurred and shall be deposited in the fund of the board recovering the costs.

(h) Nothing in this section shall preclude the board from including the recovery of the costs of investigation and enforcement of a case in any stipulated settlement.

§318. Chiropractic Patient Records/Accountable Billings.

(a) Chiropractic Patient Records. Each licensed chiropractor is required to maintain all active and inactive chiropractic patient records for five years from the date of the doctor's last treatment of the patient. Active chiropractic records are all chiropractic records of patients treated within the last 12 months. Chiropractic patient records shall be classified as inactive when there has elapsed a period of more than 12 months since the date of the last patient treatment.

All chiropractic patient records shall be available to any representative of the Board upon presentation of patient's written consent or a valid legal order. Active chiropractic patient records shall be immediately available to any representative of the Board at the chiropractic office where the patient has been or is being treated. Inactive chiropractic patient records shall be available upon ten days notice to any representative of the Board. The location of said inactive records shall be reported immediately upon request.

Active and inactive chiropractic patient records must include all of the following:

- (1) Patient's full name, date of birth, and social security number (if available);
- (2) Patient gender, height and weight. An estimated height and weight is acceptable where the physical condition of the patient prevents actual measurement;
- (3) Patient history, complaint, diagnosis/analysis, and treatment must be signed by the primary treating doctor. Thereafter, any treatment rendered by any other doctor must be signed or initialed by said doctor;
- (4) Signature of patient;
- (5) Date of each and every patient visit;
- (6) All chiropractic X-rays, or evidence of the transfer of said X-rays.

(b) Accountable Billings. Each licensed chiropractor is required to ensure accurate billing of his or her chiropractic services whether or not such chiropractor is an employee of any business entity, whether corporate or individual, and whether or not billing for such services is accomplished by an individual or business entity other than the licensee. In the event an error occurs which results in an overbilling, the licensee must promptly make reimbursement of the overbilling whether or not the licensee is in any way compensated for such reimbursement by his employer, agent or any other individual or business entity responsible for such error. Failure by the licensee, within 30 days after discovery or notification of an error which resulted in an overbilling, to make full reimbursement constitutes unprofessional conduct.

§319. Free or Discount Services.

Licensees may advertise that they will perform certain designated routine professional services free or at a discount if such advertising claims are truthful. However, no charge shall be made for any other professional services rendered or commodities provided to a patient during any office visit in which free or discounted services are offered or provided unless, prior to the accrual of any charges, the patient shall have been informed of the cost of such additional services and/or commodities and shall have agreed to pay for them.

For the purposes of this section, no separate charge shall be made for the professional evaluation of diagnostic tests or procedures which are provided free or without cost, or at a discount, whether such professional evaluation is made at the time of the initial office visit or at any later time.

Article 3. Application for License to Practice Chiropractic

§320. Temporary Permits or Licenses.

The California law does not provide for the granting of temporary permits or licenses.

§321. Application for License.

An Application for a License to Practice Chiropractic shall be submitted on an application form (No. 09A-1 (Rev. 9/92)) prescribed and provided by the board, and titled Application for License to Practice Chiropractic, accompanied by such evidence, statements, or documents as are therein required, and filed with the board at its office in Sacramento, with the required nonrefundable application fee of one hundred dollars (\$100.00).

§322. Age of Applicant.

No applicant under the age of twenty-one (21) years of age shall be admitted to examination before the board for licensure to practice chiropractic in California.

§323. Reciprocity. Interpretation of Section 9 of the Act.

The board makes the following interpretation of Section 9 of the Act which states candidates for licensure are considered to have fulfilled the requirement of reciprocity if they provide the documentation required by the board showing the following:

- (a) Graduation from a board approved chiropractic college, and completion of the minimum number of hours and subjects as were required by California law at the time the applicant's license was issued.
- (b) Equivalent successful examination in each of the subjects examined in California in the same year as the applicant was issued a license in the state from which he is applying.
- (c) They must hold a valid and up-to-date license from the state from which they are reciprocating.
- (d) The state from which they are licensed will reciprocate with California.
- (e) The board reserves the right to require any additional education or examination for reciprocity.
- (f) A nonrefundable application fee of \$25.00.
- (g) A fee, as set forth in Section 5 of the Act, if licensure is granted.
- (h) Five (5) years of chiropractic practice.

§325. Denial of License Application; Issuance of Probationary License.

The board may refuse a license to any applicant for any of the grounds enumerated in Business and Professions Code Section 480. The board may, in its sole discretion, issue a probationary license to any such applicant who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy, including, but not limited to, the following:

- (a) Medical, psychiatric, or psychological evaluation.
- (b) Continuing medical, psychiatric, or psychological treatment.

- (c) Restriction of practice.
- (d) Continuing participation in a board-approved rehabilitation program.
- (e) Abstention from the use of alcohol or drugs.
- (f) Random blood and or urine testing for alcohol or drugs.
- (g) Compliance with all laws and regulations.

§326. Criteria for Rehabilitation.

(a) When considering the denial of a license, the Board, in evaluating the rehabilitation of the applicant and his or her present eligibility for a license, will consider the following criteria:

The nature and severity of the act(s) or offense(s) under consideration as grounds for denial.

- (1) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration as grounds for denial.
- (2) The time that has elapsed since commission of the act(s) or crime(s) referred to in subdivision (1) or (2).
- (3) Whether the applicant has complied with any terms of parole, probation, restitution or any other sanctions lawfully imposed against the applicant.
- (4) Evidence, if any, of rehabilitation submitted by the applicant.

(b) When considering the suspension or revocation of a license on the grounds that a licensee has been convicted of a crime, the Board, in evaluating the rehabilitation of such person and his or her present eligibility for a license, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Total criminal record.
- (3) The time that has elapsed since commission of the act(s) or offense(s).
- (4) Whether the licensee has complied with all terms of parole, probation, restitution or any other sanctions lawfully imposed against the licensee.
- (5) Evidence, if any, of rehabilitation submitted by the licensee.

Article 4. Approved Schools and Qualifications of Applicants

§330. Application for Approval.

An application for approval on a form provided by the Board, shall be filed with the Board at its principal office in Sacramento and addressed to the Secretary of the State Board of Chiropractic Examiners. Such application shall be on file at least six months prior to any inspection.

§331.1. Approval and Eligibility.

(a) A school which initially meets the requirements of these rules shall be first provisionally approved. No school will be finally approved until a provisional program has been in operation for at least two years.

(b) No school shall be provisionally approved until it shall present competent evidence of its organizational and financial ability to attain the minimum educational requirements set forth by these rules and institutional goals set forth in its application.

(c) No school shall be provisionally approved unless there is a reasonable need for such school in the geographical area in which it is proposed to locate.

(d) No school shall be provisionally approved until competent evidence of compliance with the requirements of Section 29023(a)(2) of the Education Code is filed with the Board.

§331.2. Inspection and Survey.

(a) No school shall be approved, provisionally or finally, until it has been inspected by the Board or its duly authorized representative, including but not limited to the Council on Chiropractic Education, and is found to be in compliance with the rules herein set forth.

(b) Each school shall permit to the Board or its authorized representatives unhampered opportunity to inspect the school's facilities, interview its entire faculty and management, examine student, teaching, grading, performance and graduation records, and inspect and audit, for cause, at the school's expense, the financial and corporate records.

§331.3. Supervision.

(a) Every approved school shall be under the supervision of a full-time president, dean, or other executive officer who shall carry out the objective and program of the school. Said officer shall have a minimum of two years experience in school administration prior to his appointment, or its equivalent in training.

(b) The president, dean, or other executive officer shall render a report annually, covering topics such as student enrollment, number and changes in faculty and administration, changes in the curriculum, courses given, and the projections for future policy. Said annual report shall be filed with the Board within one month following the end of the academic year.

(c) It shall be the duty of the president, dean, or other executive officer to obtain from each faculty member, prior to the beginning of the semester or school year, an outline and time schedule for each subject of the course. He shall approve such outlines and determine from time to time if they are being observed. A copy of this outline and a schedule of classes, showing the day and hour of presentation and the instructor shall be filed with the Board within three (3) weeks after the beginning of the term.

(d) The dean shall maintain a record of the teaching load of each member of the staff in terms of classes taught, supervision, student counseling, committee work, and other assigned activities.

(e) A permanent file of all class schedules, beginning with those as of the date of the school's approval shall be maintained by the dean. These shall be available for inspection and comparison with the courses described in the relative catalogs.

(f) Schedules must be kept up to date and posted on a bulletin board available for student inspection.

§331.4. Financial Management.

The college shall keep accurate financial records and shall file an annual financial report including a profit and loss statement as well as an asset and liability statement prepared and signed by a qualified accountant. Said financial report shall be filed with the Board within three (3) months following the end of the school's fiscal year.

§331.5. Records.

There shall be maintained a good system of records, showing conveniently and in detail, the attendance, discipline, grades and accounts of the students, by means of which an exact knowledge can be obtained regarding each student's work. A personal file must be maintained for each student containing his admission credentials, photographs and other identifying personal items. Fireproof storage must be provided for the safekeeping of records.

§331.6. Catalog.

The school shall issue, at least biennially, a catalog setting forth the character of the work which it offers, and said catalog shall be filed with the Board. The content and format shall follow the usual pattern of professional school catalogs, and shall contain the following information:

- (a) A list of its trustees, president, dean and other administrative officers and members of the faculty with their respective qualifications;
- (b) Courses set forth by department, showing for each subject its content, value in term, semester hours, or credit hours;
- (c) Entrance requirements, conditions for academic standing and discipline, such as attendance, examinations, grades, promotion and graduation;
- (d) Matriculation, tuition, laboratory, graduation and special fees, and estimated costs of books, instruments, dormitory and board; and
- (e) Descriptions of the library, audio-visual facilities, laboratories and clinic facilities setting forth at least the minimum requirement hereinafter set forth in rules.
- (f) No school will be accepted or retained in good standing which publishes in its catalog or otherwise, any misrepresentation regarding its curriculum, faculty or facilities for instruction.

§331.7. Calendar.

Each school may elect to use the semester, trimester or four-quarter term system.

A school calendar shall designate the beginning and ending dates of terms or semesters, the vacation periods and legal holidays observed, and the dates for semester and final examinations. The recitation or lecture period shall be not less than 50 minutes in length. The school may operate on a five or six-day week or any combination thereof, but the total number of hours of instruction shall be not less than 30 hours nor more than 35 hours per week. The total number of hours provided for each complete student's course, leading to the degree of Doctor of Chiropractic, shall be not less than 4,400 hours distributed over four academic years of nine months each.

§331.8. Faculty.

All faculty members shall meet the standards of the Council on Chiropractic Education.

HISTORY:

1. Repealer and new section filed 8-18-77; effective thirtieth day thereafter (Register 77, No. 34).

§331.9. Student Faculty Ratio.

(a) The full-time equivalent student-faculty ratio shall be at least one full-time professor to every fifteen (15) students enrolled in the school.

(b) A full-time professor is one who devotes a minimum of 38 hours per week to his academic duties.

(c) The maximum enrollment for any class in laboratory or clinical work shall be limited to the number which may, by Board standards, sufficiently be trained with the equipment and facilities available in such laboratory clinic.

(d) All classes and laboratory sessions, including clinics, shall be conducted under the presence and supervision of a full-time professor.

(e) There shall be one instructor for each twenty-five (25) students in the laboratory and/or clinic courses.

§331.10. Faculty Organization.

(a) A faculty shall be organized by departments. Regularly scheduled meetings of the full faculty shall be had to provide a free exchange of ideas concerning:

- (1) The content and scope of the curriculum;
- (2) The teaching methods and facilities;
- (3) Student discipline, welfare and awards;
- (4) Faculty discipline and welfare;
- (5) Committee reports and recommendations;
- (6) Recommendations for the promotion and graduation of students;
- (7) Administration and educational policies; and
- (8) Recommendations to the administrative officers and to the trustees.

(b) The dean shall appoint the following standing committees of which he shall be a member ex officio: admissions and credentials, curriculum, clinic, laboratories, library and examinations, grades and records.

§331.11. Scholastic Regulations.

(a) Admission.

(1) Each school shall have a committee on admissions and credentials. The admission of students shall be in the hands of a responsible officer who is a member of the committee and his decision shall be subject to the approval of the committee.

(2) No applicant shall be admitted to any school until he has been personally interviewed for the purpose of determining his character, scholastic aptitude, mental and physical fitness to study and practice. When a great

geographic distance precludes personal interview, the same information, supported by affidavits and photographs, may be substituted for the personal interview.

(3) Documentary evidence of preliminary education must be obtained and kept on file. All transcripts of other schools must be obtained directly from such schools.

(4) It is strongly recommended by the Board that an entrance examination compiled and administered by recognized testing agencies (e.g., A.C.T., S.A.T.) be required of all students prior to matriculation in order to prove their ability to do college level work.

(b) Date of Matriculation. No student shall be matriculated at a later date than one week immediately following the advertised date of the commencement of the school term.

(c) Qualifications of Students. No student shall be matriculated in an approved school unless he is of good moral character and is without major physical deficiencies, except as provided in Section 8.1 of the Act.

(d) Professional Education. Students shall not be matriculated in any school approved by the board unless they possess, and submit to the school upon their application for matriculation, either:

(1) A diploma from a standard high school or other institution of standard secondary school grade evidencing completion by the student of a four (4) year course, or

(2) A certificate from the board stating that the student has submitted proof, satisfactory to the board, of education equivalent in training power to a high school course. The certificate shall bear a date prior to the applicant's matriculation date in any school approved by the board.

(3) A student who seeks admission in any school approved by the Board after November 3, 1976, shall be subject to the following: The candidate must have completed, with a satisfactory scholastic record, at least 60 semester hours or an equivalent number of quarter hours in prechiropractic subjects at a college listed in the U.S. Office of Education "Education Directory--Higher Education." The specific prechiropractic subjects and hour requirements shall be in accordance with the standards adopted by the Council on Chiropractic Education.

(e) Advanced Standing.

(1) Applicants for admission to advanced standing shall be required to furnish evidence to the school:

(A) That they can meet the same entrance requirements as candidates for the first year class;

(B) That courses equivalent in content and quality to those given in the admitting school in the year or years preceding that to which admission is desired have been satisfactorily completed;

(C) That the work was done in a chiropractic college acceptable to the committee on admissions of the college; and

(D) That the candidate has a letter of recommendation from the dean of the school from which transfer is made.

(2) Credits for work done in colleges of liberal arts and sciences will be allowed based on the regulations of the Council on Chiropractic Education.

(3) Credits for basic science subjects on the professional level shall be in accordance with the provisions of the regulations of the Council on Chiropractic Education.

(4) A student desiring to re-enter the college after a lapse in attendance of one or more years shall fulfill the entrance requirements applying to the class which he seeks to enter. Students whose education was interrupted by service in the armed forces are exempt from this requirement.

(5) For all such students admitted to advance standing there will be, therefore, on file with the registrar the same documents as required for admission to the first-year class and in addition a certified transcript of work completed, together with a letter of honorary dismissal from the college from which transfer was made.

(6) No candidate for a degree shall be accepted for less than one full academic year of resident study.

(f) Attendance. In order to obtain credit for a course, a student shall have been present in class at least 90 percent of the time and shall have received a passing letter grade. When the absence exceeds 10 percent, the student shall be automatically dropped from the class. If the absences have been due to illness or other excusable reasons and if evidence of these reasons can be submitted, the student may apply for readmission through the dean's office and may be given credit for attendance upon the recommendation of his instructor and completion of course requirements.

Students shall be required to spend the last academic year of the course in residence in the college which confers the degree.

(g) Promotion.

(1) Promotion from one school term to another should be by recommendation of the instructors and consent of the committee on credentials or other similar committee. The decision should be based upon careful evaluation of the student's attendance, application, conduct and grades in quizzes and examinations. In other words, the final standing of the student in each subject shall be based upon the composite judgment of the responsible instructors in that department, and not solely upon the result of written examinations.

(2) A student failing in any subject in a school term should be required to repeat the subject.

(h) Requirements for Graduation. The requirements for admission to the school shall have been fulfilled and the candidate, in addition to scholastic qualitative requirements, shall have completed a minimum quantitative requirement of 4,400 hours of instruction in four academic years of nine months each. The last year shall have been spent in the school granting the degree. The candidate shall have complied with all the regulations of the school and be recommended for the degree by the faculty.

(i) Special (Graduate of An Approved Chiropractic School) or Unclassified Subject. Persons so registered may not be a candidate for a degree. If they desire to become candidates, they shall satisfy the usual requirements for admission as well as the degree requirement. No work done under this classification will be accepted for credit beyond 90 days from the date of matriculation. Holders of a valid chiropractic degree are exempt from this requirement.

(j) Degree. The degree conferred for completion of professional undergraduate work shall be Doctor of Chiropractic (D.C.).

§331.12.1. Curriculum.

All applicants for the Board Examination who matriculated into a chiropractic college prior to the passage of Proposition 15 (November 3, 1976) shall fulfill the requirements of this section.

(a) Course of Study. The school shall have established curriculum which indicates objectives, content and methods of instruction for each subject offered.

(b) Required Hours and Subjects. The school shall offer, and shall require for graduation, a course of not less than 4,000 academic hours extended over a period of four school terms of not less than nine months each. Such course shall include the minimum educational requirements set forth in Section 5 of the Act. The minimum number of hours required in the basic subjects shall be as follows:

Anatomy including embryology (minimum of 480 hours), histology (minimum of 160 hours), and dissection (minimum of 160 hours)	800 hours
Physiology	320 hours
Biochemistry, inorganic and organic chemistry	320 hours
Pathology (minimum of 280 hours), bacteriology (minimum of 160 hours), and toxicology (minimum of 40 hours)	480 hours
Public health, hygiene and sanitation, and first aid	120 hours
Diagnosis (minimum of 480 hours), pediatrics (minimum of 40 hours), psychiatry (minimum of 40 hours), dermatology, syphilology and serology (minimum of 40 hours), and X-ray (minimum of 120 hours)	720 hours
Obstetrics and gynecology	120 hours
Principles and practice of chiropractic (minimum of 960 hours), physiotherapy (minimum of 120 hours), and dietetics (minimum of 40 hours)	1,120 hours

(c) Subject Presentation. Laboratory teaching with actual student participation must be included in anatomy, dissection, histology, chemistry, physiology, bacteriology, pathology.

The classes shall be presented in a proper sequence so that the normal shall be presented first before the abnormal is to be considered (i.e., the student must learn anatomy, chemistry and physiology before he is taught pathology and diagnosis). The subject presentation should be of a nature and depth comparable to that found at State colleges in equivalent courses.

ANATOMY: Includes gross anatomy, dissection, embryology, and histology with particular emphasis on neurology.

PHYSIOLOGY: To include the physiology of blood and lymph, circulation, respiration, excretion, digestion, metabolism, endocrines, special senses and nervous system.

CHEMISTRY: To include inorganic and organic chemistry, physical chemistry, the chemistry of foods, digestion and metabolism.

PATHOLOGY AND BACTERIOLOGY: Pathology to include general and special pathology. Bacteriology to include parasitology and serology.

PUBLIC HEALTH AND HYGIENE AND SANITATION: To include sanitary and hygienic procedures, First Aid, prevention of disease and Public Health Department regulations.

DIAGNOSIS: To include physical, clinical, laboratory and differential diagnosis; pediatrics, geriatrics, dermatology, syphilology, psychology, psychiatry and roentgenology (technique and interpretation).

OBSTETRICS AND GYNECOLOGY: To include the standard routine diagnostic procedures, and clinical and laboratory examinations.

PRINCIPLES AND PRACTICE OF CHIROPRACTIC, DIETETICS, PHYSIOTHERAPY, AND OFFICE PROCEDURE: To include history and principles of chiropractic, spinal analysis, adjustive techniques and orthopedics.

NUTRITION: To include dietetics and clinical nutrition, including primary and secondary nutritional deficiencies.

PHYSIOTHERAPY: To include the theory, principles and use of the standard recognized physiotherapy equipment and procedures.

OFFICE PROCEDURE: To include private office and case management, the writing and completion of reports and forms for insurance claims, and the provisions, rules and regulations of the Chiropractic Act.

(d) Additional Hours and Subjects. The school, if it desires, may offer and may require for graduation, course of more than 4,000 hours. Such additional hours may be in elective subjects.

(e) Clinics. Each student shall be provided with actual clinical experience in the examining, diagnosing, and treatment of patients. Said clinical experience shall include spinal analysis, palpation, chiropractic philosophy, symptomatology, laboratory diagnosis, physical diagnosis, X-ray interpretation, postural analysis, diagnostic impressions, and adjusting of various articulations of the body, psychological counseling, dietetics and physical therapy. Individual case files on each patient together with a record of dates and treatments given and student treating shall be kept and available to the board for inspection.

§331.12.2. Curriculum.

All applicants for licensure shall be required to comply with this section in order to qualify for a California chiropractic license.

(a) Course of Study: Every school shall have a curriculum which indicates objectives, content and methods of instruction for each subject offered.

(b) Required Hours and Subjects: Each applicant shall offer proof of completion of a course of instruction in a Board-approved chiropractic college of not less than 4,400 hours which includes minimum educational requirements set forth in Section 5 of the Act. The course of instruction completed by the applicant shall consist of no less than the following minimum hours, except as otherwise provided:

Group I	Anatomy, including embryology, histology and human dissection	616 hours
Group II	Physiology (must include laboratory work)	264 hours
Group III	Biochemistry, clinical nutrition, and dietetics	264 hours
Group IV	Pathology, bacteriology, and toxicology	440 hours
Group V	Public health, hygiene and sanitation, and emergency care	132 hours
Group VI	Diagnosis, including E.E.N.T. and serology, dermatology and sexually transmitted diseases, geriatrics, X-ray interpretation, and neurology	792 hours
Group VII	Obstetrics, gynecology, and pediatrics	132 hours
Group VIII	Principles and practice of chiropractic to include chiropractic technique, chiropractic philosophy, orthopedics, X-ray technique, and radiation protection	430 hours
	Clinic, including office procedure	518 hours
	Physiotherapy	120 hours
	Psychiatry	32 hours

Total 4,400 hours

(c) Subject Presentation: Laboratory teaching with actual student participation shall be included in human dissection, histology, chemistry, physiology, bacteriology, pathology, X-ray and physiotherapy. Each school shall have and use at least one phantom or equivalent equipment for X-ray class and other courses as may be necessary for adequate teaching.

Classes shall be presented in proper academic sequence. Each student shall be taught micro and gross anatomy, human dissection, and physiology before pathology; biochemistry before or concurrent with physiology; and diagnosis before or concurrent with the study of pathology. Clinic hours shall be taken only after a student completes all hours in or concurrently with diagnosis.

(1) ANATOMY: To include gross anatomy, human dissection, embryology and histology.

(2) PHYSIOLOGY: To include the physiology of blood and lymph, circulation, respiration, excretion, digestion, metabolism, endocrines, special senses and nervous system.

(3) BIOCHEMISTRY AND NUTRITION: Biochemistry to include the chemistry of foods, digestion, and metabolism. Nutrition to include dietetics and clinical nutrition in the prevention and treatment of illnesses.

(4) PATHOLOGY AND BACTERIOLOGY: Pathology to include general and special pathology. Bacteriology to include parasitology and serology.

(5) PUBLIC HEALTH, HYGIENE, SANITATION AND EMERGENCY CARE: To include sanitary and hygienic procedures, First Aid, minor surgery, prevention of disease, and Public Health Department regulations.

(6) DIAGNOSIS: To include physical, clinical, laboratory and differential diagnosis; E.E.N.T., geriatrics, serology, dermatology, syphilology, roentgenology (technique and interpretation) and the rules and regulations of the Radiologic Technology Certification Committee of the State Department of Health Services.

(7) OBSTETRICS, GYNECOLOGY AND PEDIATRICS: To include the standard routine diagnostic procedures and clinical and laboratory examinations.

(8) PRINCIPLES AND PRACTICE OF CHIROPRACTIC, DIETETICS, PHYSIOTHERAPY, AND OFFICE PROCEDURE: To include history and principles of chiropractic, spinal analysis, adjustive technique of all articulations of the body, orthopedics and patient counseling in curriculum subject matters.

(9) PHYSIOTHERAPY: To be eligible for licensure, each applicant must furnish proof satisfactory to the Board of successful completion of the required 120 hours of physiotherapy course work and additional clinical training in which the theory, principles and use of the standard recognized physiotherapy equipment and procedures were demonstrated to and used by the applicant. This shall include a minimum of thirty (30) patient office visits in which physiotherapy procedures are performed by the student on their own clinic patients. If physiotherapy course work is not offered by the chiropractic college where the student matriculated, the required instruction and clinical training in physiotherapy may be completed at another Board-approved chiropractic college, provided such course is a regular credit course offered primarily to matriculated students.

Physiotherapy course work not completed prior to graduation from chiropractic college may be fulfilled by course work taken subsequent to graduation at a Board-approved chiropractic college in conjunction with clinical training in physiotherapy offered by that college. Such course work and clinical training must be regular credit course work and clinical training offered primarily to matriculated students.

(10) OFFICE PROCEDURE: To include private office and case management, the writing and completion of reports and forms for insurance claims, and the provisions, rules and regulations of the Chiropractic Act, and the Radiologic Technology Certification Committee of the State Department of Health Services.

(d) Additional Hours and Subjects: It is recommended that a school offer elective subjects, including chiropractic meridian therapy, counseling, hypnotherapy and biofeedback. The school may offer and require for graduation courses of more than 4,400 hours.

(e) Clinics: Each student shall be provided with actual clinical experience in the examining, diagnosing, and treatment of patients. Such clinical experience shall include spinal analysis, palpation, chiropractic philosophy,

symptomatology, laboratory diagnosis, physical diagnosis, X-ray interpretation, postural analysis, diagnostic impressions, and adjusting of various articulations of the body, psychological counseling and dietetics. Individual case files on each patient together with a record of dates and treatments given and student treating shall be kept and available to the board for inspection.

Clinical hours, as described in this section, including those relating to physiotherapy, must be completed in a clinic operated or supervised by a chiropractic college.

Each student shall be required to complete, as a minimum for graduation, the following:

(1) Twenty-five (25) physical examinations of which at least ten (10) are of outside (not student) patients.

A physical examination shall include an evaluation of all vital signs, case history, orthopedic and neurological testing.

Students shall also have practical clinical laboratory training, including twenty-five (25) urinalyses, twenty (20) complete blood counts (CBCs), ten (10) blood chemistries, and thirty (30) X-ray examinations. Students shall perform ten (10) proctological and ten (10) gynecological examinations. Proctological and gynecological examinations may be performed on a phantom approved by the Board. Gynecological and proctological examinations not completed prior to graduation may be completed after graduation at a Board-approved chiropractic college.

(2) Students shall perform a minimum of two hundred and fifty (250) patient treatments (visits), including diagnostic procedures, chiropractic adjustive technique and patient evaluation.

(3) Written interpretation of at least thirty (30) different X-ray views, either slide or film, while a senior in the clinic, in addition to other classroom requirements which shall include the spinal column, all other articulations of the body, and soft tissue.

(4) Minimum of five hundred eighty (518) hours of practical clinical experience (treating patients in the clinic).

§331.12.3. Eligibility to Take Board Examination.

To be eligible to take the board examination, each applicant for licensure must furnish proof satisfactory to the Board of meeting all licensure requirements.

§331.13. Physical Facilities.

(a) General: Each school shall own, or enjoy the assured use of a physical plant large enough to accommodate classrooms, lecture rooms, laboratories, a clinic, a library and administrative and faculty offices. Each school shall meet and maintain the standards and requirements established by or under the authority of the laws of the State of California governing educational institutions and all applicable city and county ordinances wherein the school is located and shall maintain competent evidence of such compliance, for examination by the Board.

(b) Administrative Offices: The administrative offices shall provide adequate office space for faculty members.

There shall be space available for faculty conferences.

All furnishings shall be serviceable and functional and there shall be sufficient office equipment, subject to Board approval, to efficiently manage the business of the school.

There shall be fireproof storage for all records and documents required by the Chiropractic Initiative Act, statute, or regulations.

All administrative offices shall meet the standards and requirements incorporated by subparagraph (a) above.

(c) Classrooms: There shall be sufficient number and size of classrooms to separately accommodate the graded classes in 1st, 2nd, 3rd and 4th year classes. No two or more subjects shall be taught in the same classroom simultaneously. No two or more student classes (1st, 2nd, 3rd and 4th year) shall be taught in the same classroom simultaneously.

Classrooms shall be located where there is quiet and freedom from interruption and distraction.

All classrooms shall be furnished with audio-visual aids appropriate to the subject matter being taught, and desks and chairs or tablet armchairs. There shall be effective shades to darken rooms equipped with visual projection apparatus.

All classrooms shall meet the standards and requirements incorporated by subparagraph (a) above.

(d) Laboratories: Laboratories shall be well lighted and ventilated and shall be equipped for the practical work in human dissection, histology, chemistry, physiology, bacteriology, pathology, laboratory diagnosis, roentgenology, physiotherapy and chiropractic technique.

Anatomy and pathology laboratories shall contain standard equipment. No more than ten (10) students shall be assigned per table. Sinks should be equipped with wrist action or foot pedal valves, and supplied in a sufficient number. Human cadavers and specimens for individual and small group demonstrations shall be supplied. If human cadavers are not available, or state law prohibits their use, schools must obtain prior written approval from this Board.

Microscopic laboratories shall have one microscope and one desk light for each two (2) students in the class.

Chiropractic technique laboratories shall be equipped with one chiropractic adjusting table for every four (4) students in the class.

Actual student experience with X-ray phantom or equivalent for all areas of the body shall be necessary.

Additionally, all laboratories shall meet the standards and requirements incorporated in subparagraph (a) above.

(f) Teaching Aids and Equipment: For the subject of physiotherapy there shall be sufficient generally recognized equipment for classroom and clinic purposes (to include sine galvanic, ultrasound, diathermy, ultraviolet, heat, cold, percussion, and transaction). For the practical work and physical diagnosis students shall be required to own the ordinary and usual diagnostic instruments, including, but not limited to, thermometers, stethoscopes, sphygmomanometers, oto-ophthalmoscope examination sets, and orthopedic-neurological examination instruments. Each school shall own and teach the use of the current standard diagnostic instruments and a list of same shall be made available to the Board upon request. For classroom demonstration and visual education aids, each school shall own charts, mannequins, skeletons, bone collections, anatomical and embryological models, stereopticons, balopticons, micro-projections, and video players or similar projection equipment. The film and slide library shall be constantly augmented by the addition of new material.

(g) Library: A library shall be provided for the use of the student body. The minimum requirements for a library are:

(1) Operation of the library shall be under the direct supervision of a full-time librarian holding a degree in library science.

(2) The library shall be open to students a minimum of eight (8) hours per day. It shall have room available for study purposes to accommodate at least ten (10) percent of the enrolled students at one time. Hours shall be posted.

(3) The library volumes shall be cataloged, using a generally accepted system.

(4) The library shall consist of a minimum of 5,000 volumes of which 2,000 shall be less than ten years of age. Only cataloged scientific volumes which are of interest to the published curriculum of the school can be counted as library volumes. Unbound journals and periodicals shall not be counted in determining compliance with this rule.

(5) Each school shall conduct a program of student orientation as to the use of the library and class assignments involving the use of the library.

(h) Clinic: Each school shall operate a general out-patient clinic where the senior students will obtain actual experience, practical knowledge and skill in:

(1) Diagnosis, including physical examination, palpation, spinal analysis, clinical pathological, laboratory findings, X-ray, and tentative and working diagnoses.

(2) Adjustive technique, dietetics, and psychotherapy for the care or prevention of disease in accordance with Section 7 of the Act.

Such a clinic shall at all times be under the supervision of a clinician who meets the standards of the Council on Chiropractic Education.

The minimum requirements of a clinic are:

(A) A reception room with a minimum seating capacity for ten (10) persons.

(B) A minimum of five (5) patient dressing rooms that are equipped with at least curtains to ensure privacy.

(C) An administration area wherein at least one full-time secretary shall be located and patient files shall be maintained.

(D) A minimum of one (1) office for each faculty member supervising the clinic with a minimum of two (2) such offices.

(E) Separate lavatories for men and women with a minimum of one (1) each.

(F) A minimum of one (1) physical examination room for every ten (10) students concurrently present and enrolled in the clinic.

(G) A minimum of one (1) chiropractic adjusting table for every five (5) students performing adjustments on clinic patients with a minimum of five (5) such tables.

(H) A minimum of one (1) X-ray examination room that is equipped with at least one (1) X-ray machine that has a capacity of no less than 125 KV plus 300 M.A. There shall also be an X-ray developing room that is equipped with the appropriate and necessary film processing equipment as required by the Board. This room may be an area within the X-ray procedure room or shall be located in the immediate area in the same building of such X-ray procedure room. A list of minimal X-ray equipment which shall be used must be obtained from the Board.

(I) A lab room equipped with a sterilization facility, unless waived in writing by the Board.

(J) In addition to the requirements of section 331.12(e), each student's work, conduct, reliability and personality shall be evaluated in writing by his or her supervising teacher and such evaluation shall become a part of the student's record and shall be available for inspection by the Board.

(i) Operation and Maintenance of the Physical Plant. In addition to the requirement of subparagraph (a) above, each school shall operate and maintain all physical equipment in good repair.

Lockers shall be available for student use.

§331.14. Quality of Instruction.

Nothing herein contained shall constitute any limitation or restriction upon the power of the Board to refuse to approve, or to disapprove, any school if in the opinion of the Board the quality of instruction is not sufficiently high to meet the objective of the State Chiropractic Act or these rules.

§331.15. Violations or Failure to Comply.

(a) Any violation of these rules, or failure to comply with them, shall be grounds to revoke approval of any school, and to refuse approval to any school, or to any applicant.

(b) If any school provisionally approved or approved by the Board undergoes fundamental changes in its administration, organization or stated objectives, provisional approval or approval shall be suspended until such time as the Board again appraises the institution.

Such changes include but are not limited to change in ownership of the school or its assets or noncompliance with Section 29032(a)(2) of the Education Code.

(c) In the event an approved school or a school applying for provisional approval fails to maintain or meet the required standards, the institution will be given a bill of particulars and granted 60 days to comply; in the event such corrections are not made within said time, the institution will be removed from the approved list or denied provisional approval.

(d) Institutions rejected or removed from the approved list may apply for reconsideration or reinstatement in accordance with Rule 331.

§331.16. Definition of Board.

Whenever the Board is used in this article, it shall mean the Board of Chiropractic Examiners unless otherwise indicated.

Article 5. Examinations

§340. Examinations.

The examination shall be administered a minimum of two (2) times each year. It shall be held in a location accessible to the applicants; and it shall be administered in a manner which maintains the validity and reliability of the examination, and provides on-site anonymity to the applicants. The examination shall be conducted in a manner to assure a reasonable expectation of the fair and impartial evaluation of the applicants' knowledge, and their ability to practice chiropractic in the best interests of the public health and welfare.

§341. Other Articles Forbidden.

During the examination, no applicant will be permitted to have in his possession any paper or object other than the examination questions, examination paper, pencil supplied by the board, and a watch. Further, an applicant is forbidden from wearing any jewelry which includes rings, tie clasps, belt buckles and bracelets which identifies an applicant with a particular chiropractic association, philosophy, or school.

§342. Conduct During Examination.

No applicant will be permitted to communicate in any way with any other applicant, nor will he be permitted to question any examiner in reference to or interpretation of the questions under consideration. Applicants must rely solely upon their own judgment as to the meaning of each question, and on their own knowledge of the subject in answering. Any disturbance on the part of the applicant will disqualify said applicant and he will be required to leave the examination room.

§343. Basis of Questions.

All examination questions shall be with respect to the subject listed in Groups 1 to 8, inclusive, set forth in Sections 331.12.1, 331.12.2, and 331.12.3 of these rules. They shall be based upon material contained in standard textbooks approved by the board.

§344. Cheating.

Any person, who upon good cause shown, is suspected of cheating shall be ousted from the examination and, upon a finding that said person did, in fact, cheat on that exam, said person will be denied further examination for a period of at least one year thereafter. Notice of such action against an individual caught cheating shall be submitted to all state chiropractic boards.

§345. Retention of Papers.

Examination papers will be retained by the board for one year and destroyed at the end of that time.

§346. Interpretation of Part of Section 6(c) of the Act.

The board makes the following interpretation of that part of Section 6(c) of the Act which states that: "Any applicant failing to make the required grade shall be given credit for the branches passed, and may, without further costs, take the examination at the next regular examination on the subjects in which he failed."

Candidates are considered to have failed a subject if they receive a grade in that subject of less than seventy-five percent (75%).

If first-time applicants, or retake applicants considered as first-time applicants by this section, having taken the examination and failed to receive the grade as required in Section 6(c),

(a) do not take the examination in the failed branches as required by the board, at the next regular examination, or

(b) fail to obtain grades sufficient to bring the general average to at least seventy-five percent (75%), or receives less than sixty percent (60%) in more than two subjects in which examined (grades in the subjects credited the previous examination are to be included in determining such general average), or

(c) fail to receive a 75 percent (75%), or better, on each part of the practical examination, then the credit allowed in the branches passed in the first examination shall lapse.

If, thereafter, candidates desire to reapply, they shall renew their application together with an additional application license fee, and shall be examined in the same manner and to the same extent as though they had not previously taken any examination.

§347. Cheating.

HISTORY:

1. Amendment filed 12-12-78; effective thirtieth day thereafter (Register 78, No. 50).
2. Renumbering and amendment of Section 347 to Section 344 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 79, No. 7.

§348. Failure to Appear for Examination.

An applicant for a license to practice chiropractic who fails to appear for examination within one year after being first qualifying therefor shall be considered to have abandoned his application and shall forfeit the license fee paid in connection therewith. If such person thereafter applies for a license, he shall be required to establish his eligibility for such license in the same manner as an original applicant in accordance with the provisions of the act and the regulations of the board in effect at the time the new application is filed.

§349. Interpretation of Section 6(d) of the Act.

(a) For applicants applying for licensure through June 30, 1996, the board makes the following interpretation of Section 6(d) of the Act which states:

“An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certificate from the National Board of Chiropractic Examiners, may offer such certificate together with a transcript of grades secured in said national board examination, and the California Board of Chiropractic Examiners may accept same in lieu of all or a portion of the California board examination as determined by the board.”

(1) To be considered by the board, proof of status with the National Board of Chiropractic Examiners must be submitted to the board's office in compliance with application instructions and postmarked on or before the final filing date designated by the board.

(2) Applicants with National Board status who fail the board examination, under the provisions of Section 346 must retake the entire written and practical examinations of the board.

(3) Effective January 1, 1996: Prior to being scheduled for the practical portion of the California board examination, the applicant must show proof of either National Board status or successful completion of the entire written portion of the California licensure examination.

(4) National Board status means attainment of passing scores on the National Board Parts I, II, III, and Physiotherapy examinations.

(b) For applicants applying for licensure on or after July 1, 1996, the Board makes the following interpretation of Section 6(d) of the Act which states:

“An applicant having fulfilled the requirements of Section 5 and paid the fee thereunder, and having obtained a diplomate certification from the National Board of Chiropractic Examiners, may offer such certificate together with a transcript of grades secured in said national board examination, and the California Board of Chiropractic Examiners may accept same in lieu of all or a portion of the California board examination as determined by the board.”

(1) To be eligible for the California Chiropractic Board examination, proof of status with the National Board of Chiropractic Examiners must be submitted to the board's office in compliance with application instructions and postmarked on or before the final filing date designated by the board.

(2) All applicants for licensure must show proof of National Board status, and successful scores for the California Chiropractic Board examination, which may cover California laws and regulations governing the practice of chiropractic, and/or other subjects as taught in chiropractic schools or colleges.

(3) Applicants who fail components of the California Chiropractic Board examination after two attempts must, under the provisions of Section 346, retake all of the California Chiropractic Board examination.

(4) The National Board of Chiropractic Examiners examination Parts I, II, III, IV, and Physiotherapy, and the California Chiropractic Board examination shall constitute the California board licensure requirement.

(5) National Board status means attainment of passing scores on the National Board Parts I, II, III, IV, and Physiotherapy examinations.

(6) The California Chiropractic Board examination means the examination developed by the Board of Chiropractic Examiners or an agency designated by the board. This California Chiropractic Board examination shall cover California laws and regulations governing the practice of chiropractic, and/or other subjects as taught in chiropractic schools or colleges, and must be taken after the candidate has graduated from chiropractic college.

§350. Interpretation of Part of Section 6(c) of the Act.

HISTORY:

1. Amendment filed 1-4-77; effective thirtieth day thereafter (Register 77, No. 2). For prior history, see Register 76, No. 12.
2. Amendment filed 8-18-77; effective thirtieth day thereafter (Register 77, No. 34).
3. Amendment filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
4. Amendment filed 2-15-79; effective thirtieth day thereafter (Register 79, No. 7).
5. Renumbering and amendment of Section 350 to Section 346 filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

§351. Failure to Appear for Examination.

HISTORY:

1. Renumbering and amendment of Section 351 to Section 348 filed 7-30-87; operative 8-29-87 (Register 87, No. 32). For prior history, see Register 80, No. 5.

§352. Interpretation of Section 6(d) of the Act.

HISTORY:

1. New section filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Amendment of subsection (a) filed 2-5-80; effective thirtieth day thereafter (Register 80, No. 5).
3. Renumbering and amendment of Section 352 to Section 349 filed 7-30-87; operative 8-29-87 (Register 87, No. 32).

§353. Failure of the Examination.

HISTORY:

1. New section filed 10-7-77; effective thirtieth day thereafter (Register 77, No. 41).
2. Repealer filed 2-27-78; effective thirtieth day thereafter (Register 78, No. 9).

§354. Successful Examination.

Notwithstanding Section 312, applicants who are notified in writing by the Board of the successful completion of the Board examination, may immediately commence the practice of chiropractic in California pending the receipt of their certificate.

Article 6. Continuing Education

§355. Renewal and Restoration.

(a) Commencing with the renewal period for 1973, each licensee and each applicant for restoration of a license forfeited for failure to renew shall, as a condition to renewal or restoration of his license and in addition to paying the annual renewal fee of one hundred fifty dollars (\$150.00) or restoration fee of double the annual renewal fee as provided by section 12 of the Act (California Business and Professions Code section 1000-12), submit proof that he has completed within the past 12 months a course of continuing education approved by the board on a form (No. 09RA-1 (8/91) provided by the board titled Renewal Application. The Renewal Application as provided by the board will indicate the current year of renewal.

(b) In lieu of submitting the proof of completion of continuing education required under subsection (a) above, any such licensee or applicant may submit a statement, which shall be verified or certified under penalty of perjury, that he or she will not engage in the practice of Chiropractic within the State of California during the period for which renewal or restoration is sought unless he or she first completes an approved course of continuing education and submits proof thereof to the board; and that he or she understands that failure to do so will constitute grounds for the suspension or revocation of his or her license. A license that has expired for failure to renew may be renewed at any time within three years after the expiration date. If no application is received within three years, the Board shall cancel the license.

(c) To restore a cancelled license, the person must submit to the Board's office, in compliance with the application instructions, an application for restoration, pay a fee of twice the annual amount of the renewal fee, and provide evidence of Board-approved continuing education, as specified in California Code of Regulations, section 356, for each 12-month period in which the license was cancelled. Continuing education required to restore a cancelled licensed must be commenced and completed during the 12-month period immediately preceding the request for restoration.

(d) Licenses for doctors of chiropractic which heretofore expired on the last day of December each year will henceforth expire on the last day of the birth month of the licensee in each year.

To facilitate the conversion to the birthdate renewal system for doctors of chiropractic, licenses that expire on December 31, 1991 will be renewed for periods from seven (7) to eighteen (18) months. The fee to be paid shall be that determined by multiplying 1/12 of the renewal fee by the number of months of licensure in accord with the following schedule. All fees shall be rounded to the nearest whole dollar.

Licensees Born In	Will Be Licensed for The Period	Months of Licensure
January	January 92-January 93	13
February	January 92-February 93	14
March	January 92-March 93	15
April	January 92-April 93	16
May	January 92-May 93	17
June	January 92-June 93	18
July	January 92-July 92	7
August	January 92-August 92	8
September	January 92-September 92	9
October	January 92-October 92	10
November	January 92-November 92	11
December	January 92-December 92	12

This will be a one time reduction or increase, effective January 1992 all licenses will be annually renewed on a birthdate renewal system.

This subsection shall remain in effect until June 30, 1993, and on such date is repealed.

§355.1. Continued Jurisdiction of a License.

The suspension, expiration, or forfeiture by operation of law of a license issued by the board, or its suspension, or forfeiture, by order of the board or by order of a court of law, or its surrender without the written consent of the board shall not, during any period in which it may be renewed, restored, reissued, or reinstated, deprive the board of its authority to institute or continue a disciplinary proceeding against the licensee upon any ground provided by law or to enter an order suspending or revoking the license or otherwise taking disciplinary action against the licensee on any such ground.

§355.2. Inactive License.

A licensed chiropractor may apply to the board to request that his or her license be placed on inactive status. An inactive license shall be renewed during the same time period at which an active license is renewed. The renewal fee for a license in an inactive status shall be the same fee assessed for renewal of an active license. Licensees holding an inactive license shall be exempt from continuing education requirements.

The holder of an inactive license shall not engage in the practice of chiropractic during the time the license is inactive.

Licensees on inactive status who have not committed any acts or crimes constituting grounds for discipline may submit a written request for an active license and the following:

(a) Evidence of board-approved continuing education for each 12-month period or portion thereof the license was inactive. The continuing education must be taken prior to the request for activation and shall comply with California Code of Regulations section 356; or

(b) If practicing in another state, provide proof of licensure and continuing education from that state for each 12-month period the license was inactive in California.

§356. Course Content.

(a) All doctors engaged in active practice, whether on a full-time or part-time basis, shall complete a minimum of twelve (12) hours per licensing year of continuing education courses approved by the board.

The board shall consider for approval the application of any continuing education course which conforms to the criteria below and is sponsored by a board approved continuing education provider.

A continuing education course may contain more than twelve (12) hours of approved subject material. Any twelve (12) approved hours may be selected for continuing education credit, provided, however, the same course may not be attended more than once for credit within that licensing year, and four (4) hours of every twelve (12) hours selected for continuing education credit must be in the subject area of adjustive technique. The four (4) hours in adjustive technique may be satisfied by lecture and demonstration.

The basic objectives and goals of continuing education are the growth, maintenance of knowledge and competency, the cultivation of skills, and greater understanding, with a continual striving for excellence in chiropractic care and the improvement in the health and welfare of the public.

(b) Each course approved by the board must present subject material directly related to the concepts of chiropractic principles and practice including diagnostic procedures, patient care and management. The board recommends special attention be given to the following:

(1) Principles of practice of chiropractic and office procedures including, but not limited to:

(A) Chiropractic treatment and adjustment technique, including physiotherapy, nutrition and dietetics;

(B) Examination and diagnosis or analysis including physical, laboratory, orthopedic, neurological and differential;

(2) Radiographic technique and interpretation involving all phases of roentgenology as permitted by law;

(A) Study of the methods employed in the prevention of excessive radiation and safety precautions to the patient;

(3) Postgraduate studies including, but not limited to, subjects contained within groups one through six of Section 5 of the Chiropractic Initiative Act;

(4) Insurance procedures and reporting.

§356.1. Cardiopulmonary Resuscitation/Basic Life Support Training.

As a condition of licensure and license renewal, all licensees are required to maintain current certification in cardiopulmonary resuscitation (CPR) or basic life support (BLS) from the American Red Cross, American Heart association, or other associations approved by the Board. Training required for the CPR/BSL certification shall not be credited toward the requirements set forth in section 356. Exemptions will be made for licensees as the Board, in its discretion, determines were unable to maintain current CPR/BLS certification due to physical impairment, illness, incapacity or other unavoidable circumstances.

§356.5. Continuing Education Provider Approval, Duties and Responsibilities.

(a) In order to become and remain eligible for approval by the board as a continuing education provider, each provider must comply with provisions (b)(1) through (b)(10) of this section and provisions of section 357. Failure to comply with these provisions may result in the withdrawal of approval of the provider by the board. A provider that has had its approval withdrawn by the board shall not be eligible to provide continuing education credit until the board reinstates the provider. A provider that has lost approval may reapply to the board for approval as a continuing education provider after a period of suspension established by the board at the time that approval is withdrawn not to exceed two years.

(b) Each continuing education provider shall:

(1) Make written application to the board for approval as a continuing education provider, and also provide to the board a written mission statement that outlines the provider's continuing education objectives and declares the provider's commitment to conform to the standards set forth in this section. Applications for approval shall be submitted to the board office at least 30 days prior to a scheduled board meeting. Providers with applications that are incomplete will be notified of the deficiencies in writing within three weeks from the date of receipt. Complete applications will be reviewed at the scheduled board meeting and notification of the board's decision will be provided in writing within two weeks following the board meeting;

(2) Have engaged in the business of providing education to licensed health care professionals consisting of no less than one course in each year of a five year period immediately preceding the date of application for approval by the board as a continuing education provider;

(3) Designate a person responsible for overseeing all continuing education activities of the provider and provide written notification to the board identifying that individual;

(4) Use teaching methods that ensure student comprehension of the subject matter and concepts being taught;

(5) Establish and maintain procedures for documenting completion of courses, retain attendance records for at least four (4) years from the date of course completion, and furnish the board with a roster of persons completing the course, including the name and state chiropractic license number of each course participant, within sixty (60) days of course completion. Failure to submit the list of course participants within sixty (60) days of course completion may be grounds for withdrawal or denial of course approval;

(6) Be responsible for maintaining full-time monitoring of course attendance. If any participant's absence from the room exceeds ten (10) minutes during any one hour period, credit for that hour shall be forfeited and such forfeiture shall be noted in the provider's attendance report submitted to the board as required in subsection (b)(5) of this section. It shall further be the responsibility of the provider to see that each person in attendance is in place at the start of each course period. Failure to maintain proper attendance monitoring procedures may be grounds for withdrawal or denial of course approval;

(7) Ensure availability to course participants of meeting rooms, study aids, audiovisual aids, and self-instructional materials designed to foster learning and ensure student comprehension of the subject matter and concepts being taught;

(8) Disclose in any continuing education course advertising if expenses of the program are underwritten or subsidized by any vendors of goods, supplies, or services;

(9) Inform the board immediately of any event that may affect the provider's approval as a continuing education provider by the board;

(10) Inform the board in writing immediately of any change to the course that would affect the date, time or location when or where the course will be held.

§357. Approval of Continuing Education Courses.

(a) The application for approval of a continuing education course shall be submitted to the board office at least 45 days prior to the date of the course and shall include a nonrefundable application fee of \$50.00 and any other documentary information required by the board pursuant to section 356. The application fee for ongoing postgraduate courses presented by chiropractic institutions accredited by the Council on Chiropractic Education (C.C.E.) is due upon initial receipt of the application for approval, regardless of the number of course meetings in one calendar year. Courses with schedules continuing into a second calendar year must submit a new application for the second year if continuing education credit hours are to be offered for that year. The new application for the second year must contain the required fee (\$50.00).

If a course meets the criteria of the board, the board shall notify the provider when a course has been approved.

Mention of such approval shall be included in announcements of the program and the printed program itself as follows: "Approved by the California State Board of Chiropractic Examiners for license renewal."

(b) Any board member, or members, or board designee shall have the right to inspect or audit any approved chiropractic course in progress.

(c) The board, may, after notification and an opportunity to be heard, withdraw approval of any continuing education course, and shall immediately notify the provider of such action.

§358. Exemptions and Reduction of Requirement.

(a) All doctors of chiropractic specifically exempted from, or obtaining a reduction in continuing education requirements include the following:

(1) Inactive licentiates;

(2) New licentiates in the year of initial licensure;

(3) Teachers. A full-time teacher, as defined by C.C.E. regulation, shall be exempt from the required hours until no longer engaged in full-time chiropractic teaching.

(4) Lecturers. A lecturer shall be given two hours credit for each hour of actual lecturing at a recognized course. Credit for the same course presentation shall be granted only once during each year.

(5) If a doctor is unable to attend a continuing education course due to ill health, credit may be granted by the board upon request for documented completion of twelve (12) hours of recorded or videotaped approved continuing education course work. Such an exemption request must be made prior to the date that the required continuing education must be completed and in writing to the board's office and must also be accompanied by an attending doctor's statement.

The licensee shall send to the board's office a signed affidavit affirming he or she has completed twelve (12) hours of approved continuing education tapes and must provide the board with the names and dates of the approved continuing education courses comprising the lecture tapes.

(6) Commissioners on Examination. Commissioners on Examination who administer the practical examination at least twelve (12) hours annually shall be exempt from the continuing education requirement in the years they act as Commissioners on Examination.

(7) Active Board Members. Professional board members who have served one full year on the Board of Chiropractic Examiners shall be exempt from the continuing education requirement in each year of board member service.

§359. Revoked or Suspended Licenses.

Any person making application for reinstatement or restoration of a license which has been revoked or suspended may be required, as a part of the relief granted, to complete an approved course of continuing education, or to complete such study or training as the board may require.

§360. Continuing Education Audits.

The Board shall conduct random audits to verify compliance with Continuing Education requirements of active licensees. Licensees shall retain documents of completion issued to them at the time of attendance of Board-approved Continuing Education courses for a period of four years and shall forward such proof to the Board upon request.

Licensees who fail to retain documents of completion shall obtain duplicate documents, from Board-approved Continuing Education providers, who shall issue duplicates only to licensees whose names appear on the providers' rosters of course attendees. The documents of completion shall be clearly marked "duplicate" and shall contain the licensees' names and license numbers, as well as providers' names, course approval numbers, dates of attendance, and hours earned.

Licensees who furnish false or misleading information to the Board regarding their Continuing Education hours shall be subject to disciplinary action.

Article 7. Chiropractic Corporations

§367.1. Citation of Rules.

These rules may be cited and referred to as "Chiropractic Corporation Rules." They are subject to amendment, modification, revision, supplement, repeal, or other change by appropriate action in the future.

§367.2. Definitions.

As used in this Article:

(a) “Board” means the State Board of Chiropractic Examiners.

(b) “Licensed person” means a natural person who is duly licensed under the provisions of the Chiropractic Act to render the same professional services as are or will be rendered by the professional corporation of which he is, or intends to become, an officer, director, shareholder or employee.

(c) “Certificate of Registration” means a certificate of registration as a chiropractic corporation.

(d) “Professional services” means rendering professional services as a chiropractor.

§367.3. Professional Relationships, Responsibilities, and Conduct Not Affected.

Nothing in the laws or rules relating to chiropractic corporations alters the duties and responsibilities of a licensed person to and professional relationships with his clients and others; nor do such laws or rules in any way impair the disciplinary powers of the State Board of Chiropractic Examiners over licensed persons; nor do such laws or rules impair any other law or rule pertaining to the standards of professional conduct of licensed persons.

§367.4. Office for Filing.

All applications for a Certificate of Registration and any of the documents or reports required by these rules or by law to be filed with the board shall be filed with the principal office of the board in Sacramento.

§367.5. Application, Review of Refusal to Approve.

(a) An applicant corporation shall file with the board an application for Certificate of Registration on a form furnished by the board, which shall be signed and verified by an officer of the corporation who is a licensed person and be accompanied by a nonrefundable application fee in the amount of one hundred dollars (\$100).

(b) The board, within a reasonable time after an application for registration is submitted to it, shall either approve the application and issue a Certificate of Registration or refuse to approve the application and notify the applicant corporation of the reasons therefor.

(c) The board may delegate to its executive secretary, or other official or employee of the board, its authority under Section 1051, Business and Professions Code, to review and approve applications for registration and to issue Certificates of Registration.

(d) Any applicant corporation whose application has been disapproved by the board may request a hearing pursuant to Government Code Section 11504. The hearing shall be conducted pursuant to the Administrative Procedure Act (Government Code Sections 11502-11528).

(e) No applicant corporation shall hold itself out or engage in nor shall it render any professional services unless and until a Certificate of Registration has been issued.

§367.6. Requirements for Issuance of Certificate of Registration.

A Certificate of Registration shall be issued if the board or the person delegated by it finds that the affairs of the applicant will be conducted in compliance with law and the rules and regulations of the board.

§367.7. Name of Corporation.

(a) The name of the corporation and any name or names under which it may be rendering professional services shall contain and be restricted to the name or the last name of one or more of its present, prospective, or former shareholders, and include the word “Chiropractic,” and the word “Corporation” or wording or abbreviations denoting corporate existence, limited to one of the following: “Corp”; “Incorporated”; “Inc.”; “Professional Corporation”; “Prof. Corp.”

§367.8. Security for Claims Against a Chiropractic Corporation.

(a) When a chiropractic corporation provides security by means of insurance for claims against it by its patients, the security shall consist of a policy or policies of insurance insuring the corporation against liability imposed upon it by law for damages arising out of claims against it by its patients arising out of the rendering of, or failure to render, chiropractic services by the corporation an amount for each claim of at least \$50,000 multiplied by the number of employed licensed persons rendering such chiropractic services and an aggregate maximum limit of liability per policy year of at least \$150,000 multiplied by the number of such employees, provided that the maximum coverage shall not be required to exceed \$150,000 for each claim and \$450,000 for all claims during the policy year, and provided further that the deductible portion of such insurance shall not exceed \$5,000 multiplied by the number of such employees.

(b) All shareholders of the corporation shall be jointly and severally liable for all claims established against the corporation by its patients arising out of the rendering of, or failure to render, chiropractic services up to the minimum amounts specified for insurance under subsection (a) hereof except during periods of time when the corporation shall provide and maintain insurance for claims against it by its patients arising out of the rendering of, or failure to render chiropractic services. Said insurance, when provided, shall meet the minimum standards established in subsection (a) above.

§367.9. Shares: Ownership and Transfer.

(a) The shares of a chiropractic corporation may be issued only to a licensed person and may be transferred only to a licensed person or to the issuing corporation.

(b) Where there are two or more shareholders in a chiropractic corporation and one of the shareholders:

(1) Dies, or

(2) Becomes a disqualified person as defined in Section 13401(d) of the Corporations Code, for a period exceeding ninety (90) days, his or her shares shall be transferred to a licensed person or to the issuing chiropractic corporation, on such terms as are agreed upon. Such transfer shall occur not later than six (6) months after any such death and not later than ninety (90) days after the date he or she becomes a disqualified person. A person disqualified by license suspension or revocation shall notify the Board when his or her shares are transferred. In the event that a person becomes disqualified by death, the representative of the deceased shareholder shall notify the Board of the transfer of the deceased shareholder's shares.

(c) A corporation and its shareholders may, but need not, agree that shares sold to it by a person who becomes a disqualified person may be resold to such person if and when he again ceases to become a disqualified person.

(d) The restrictions of subsection (a) and, if appropriate, subsection (b) of this section shall be set forth in the corporation's bylaws or articles of incorporation.

(e) The share certificates of a chiropractic corporation shall contain either:

(1) An appropriate legend setting forth the restriction of subsection (a), and where applicable, the restriction of subsection (b), or

(2) An appropriate legend stating that ownership and transfer of the shares are restricted and specifically referring to an identified section of the bylaws or articles of incorporation of the corporation wherein the restrictions are set forth.

§367.10. Certificate of Registration; Continuing Validity; Reports.

(a) A Certificate of Registration shall continue in effect until it is suspended or revoked. Such certificate may be suspended or revoked for any of the grounds permitted by law.

(b) Each chiropractic corporation shall file a special report, on a form provided by the Board, within 30 days of any change of the officers, directors, shareholders, employees rendering professional services, and articles of incorporation.

(c) Each special report filed hereunder shall be accompanied by a filing fee of five dollars (\$5).

Article 8. Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11409(a), that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

BOARD OF CHIROPRACTIC EXAMINERS
3401 FOLSOM BOULEVARD, SUITE B
SACRAMENTO, CA 95816-5354

FAIR POLITICAL PRACTICES COMMISSION
428 J STREET, SUITE 800
SACRAMENTO, CA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Article 8 of Division 4 of Title 16 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Article 8. Conflict of Interest Code

Section 375. General Provisions
Appendix

HISTORY:

1. New article 8 (sections 375-383 and Exhibits A and B) filed 10-12-78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 8-2-78 (Register 78, No. 41).
2. Repealer of article 8 (sections 375-383 and Exhibits A and B) and new article 8 (section 375 and Appendix) filed 2-26-81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12-1-80 (Register 81, No. 9).
3. Amendment filed 4-6-92; operative 5-6-92. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 2-14-92 (Register 92, No. 14).

Article 9. Enforcement and Discipline

§384. Disciplinary Guidelines.

In reaching a decision on a disciplinary action under the Administrative Procedure Act (Government Code Section 11400, et seq.), the board shall consider the disciplinary guidelines entitled “Disciplinary Guidelines and Model Disciplinary Orders” [revised September 23, 1999] which are hereby incorporated by reference. Deviation from these guidelines and orders, including the standard terms of probation, is appropriate where the board in its sole discretion determines that the facts of the particular case warrant such a deviation—for example: the presence of mitigating factors; the age of the case; evidentiary problems.

§386. Fraud

Any proposed decision or decision issued in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code that contains any finding of fact that the licensee has a second separate conviction for fraud, shall contain an order of revocation, which shall not be stayed.

§390. Issuance of Citations.

(a) The executive director of the board or his/her designee may issue a citation with an order of abatement against a licensee for any violation of the California Code of Regulations which would be grounds for discipline.

(b) Each citation shall be in writing and shall describe with particularity the nature and facts of each violation specified in the citation, including a reference to the law and/or regulation alleged to have been violated.

(c) The citation shall be served upon the individual personally or by certified mail.

§390.1. Criteria to Be Considered.

In the issuance of any citation, the following factors shall be considered:

(a) Nature and severity of the violation.

(b) Length of time that has passed since the date of the violation.

(c) Consequences of the violation, including potential or actual patient harm.

(d) History of previous violations of the same or similar nature.

(e) Evidence that the violation was willful.

(f) Gravity of the violation.

(g) The extent to which the cited person has remediated any knowledge and/or skill deficiencies which could have injured a patient.

§390.2. Violation Codes and Penalty.

(a) The issuance of a citation can be for any of the following violations:

Title 16 California Code of Regulations Section 302(a)(7)

Title 16 California Code of Regulations Section 303

Title 16 California Code of Regulations Section 308

Title 16 California Code of Regulations Section 310

Title 16 California Code of Regulations Section 310.2

Title 16 California Code of Regulations Section 311

Title 16 California Code of Regulations Section 312

Title 16 California Code of Regulations Section 312.1

Title 16 California Code of Regulations Section 313

Title 16 California Code of Regulations Section 317(d)

Title 16 California Code of Regulations Section 317(f)
Title 16 California Code of Regulations Section 317(p)
Title 16 California Code of Regulations Section 317(r)
Title 16 California Code of Regulations Section 317(u)
Title 16 California Code of Regulations Section 317.1
Title 16 California Code of Regulations Section 318
Title 16 California Code of Regulations Section 319
Title 16 California Code of Regulations Section 355(b)
Title 16 California Code of Regulations Section 367.5(e)
Title 16 California Code of Regulations Section 367.7
Chiropractic Initiative Act Section 15
Business and Professions Code Section 725
Business and Professions Code Section 1054
Business and Professions Code Section 1055
Business and Professions Code Section 17500
Health and Safety Code Section 123110

(b) In his/her discretion, the executive director or designee may issue an order of abatement for the first violation of any provision set forth in subsection (a).

(c) If a licensee has previously been issued two citations for violation of any of the code sections in subsection (a), the third violation will result in filing an accusation.

§390.3. Citations for Unlicensed Practice.

The executive director or his/her designee may issue a citation against any unlicensed person who is acting in the capacity of a licensee under the jurisdiction of the board and who is not otherwise exempt from licensure. Each citation may contain an order of abatement fixing a reasonable period of time for an abatement. Any sanction authorized for activity under this section shall be separate from and in addition to any other civil or criminal remedies.

§390.4. Contested Citations.

(a) The citation shall inform the licensee that if he/she desires a hearing to contest the finding of a violation, that hearing shall be requested by written notice to the board within 30 calendar days of the date of issuance of the citation. Hearings shall be held pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(b) In addition to requesting a hearing provided for in subdivision (a) of this section, the cited person may, within 14 calendar days after service of the citation, submit a written request for an informal conference with the executive director.

(c) The executive director or his/her designee shall, within 30 calendar days from receipt of the written request, hold an informal conference with the person cited and/or his/her legal counsel or authorized representative.

(d) The executive director or his/her designee may affirm, modify or dismiss the citation, at the conclusion of the informal conference. A written decision stating the reasons for the decision shall be mailed to the cited person and his/her legal counsel, if any, within 14 calendar days from the date of the informal conference. This decision shall be deemed to be a final order with regard to the citation issued.

(e) If the citation is dismissed, the request for a hearing shall be deemed withdrawn. If the citation is affirmed or modified, the cited person may, in his/her discretion, withdraw the request for a hearing or proceed with the administrative hearing process.

§390.5. Compliance with Citation/Order of Abatement.

(a) Orders of abatement may be extended for good cause. If a cited person who has been issued an order of abatement is unable to complete the correction within the time set forth in the citation because of conditions beyond his/her control after the exercise of reasonable diligence, the person cited may request an extension of time from the executive director or his/her designee in which to complete the correction. Such a request shall be in writing and shall be made within the time set forth for abatement.

(b) When a citation or order of abatement is not contested or if the order is appealed and the person cited does not prevail, failure to abate the violation within the time allowed shall constitute a violation and a failure to comply with the citation or order of abatement.

(c) Failure to timely comply with an order of abatement is unprofessional conduct and may result in disciplinary action being taken by the board.

§390.6. Notification to Other Boards and Agencies.

The issuance and disposition of a citation shall be reported to other chiropractic boards and other regulatory agencies.

EXCERPTS FROM THE BUSINESS AND PROFESSIONS CODE

650. Consideration for referral of patients, clients, or customers; violations; penalty

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, the offer, delivery, receipt, or acceptance by any person licensed under this division or the Chiropractic Initiative Act of any rebate, refund, commission, preference, patronage dividend, discount, or other consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients, or customers to any person, irrespective of any membership, proprietary interest or coownership in or with any person to whom these patients, clients, or customers are referred is unlawful.

The payment or receipt of consideration for services other than the referral of patients which is based on a percentage of gross revenue or similar type of contractual arrangement shall not be unlawful if the consideration is commensurate with the value of the services furnished or with the fair rental value of any premises or equipment leased or provided by the recipient to the payer.

Except as provided in Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code and in Sections 654.1 and 654.2, it shall not be unlawful for any person licensed under this division to refer a person to any laboratory, pharmacy, clinic (including entities exempt from licensure pursuant to Section 1206 of the Health and Safety Code), or health care facility solely because the licensee has a proprietary interest or coownership in the laboratory, pharmacy, clinic, or health care facility; provided, however, that the licensee's return on investment for that proprietary interest or coownership shall be based upon the amount of the capital investment or proportional ownership of the licensee which ownership interest is not based on the number or value of any patients referred. Any referral excepted under this section shall be unlawful if the prosecutor proves that there was no valid medical need for the referral.

"Health care facility" means a general acute care hospital, acute psychiatric hospital, skilled nursing facility, intermediate care facility, and any other health facility licensed by the State Department of Health Services under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

A violation of this section is a public offense and is punishable upon a first conviction by imprisonment in the county jail for not more than one year, or by imprisonment in the state prison, or by a fine not exceeding fifty thousand dollars (\$50,000), or by both that imprisonment and fine. A second or subsequent conviction is punishable by imprisonment in the state prison or by imprisonment in the state prison and a fine of fifty thousand dollars (\$50,000).

650.01. Referral to health care provider in which practitioner or immediate family member has financial interests; prohibition; cross-referral arrangements; disclosure to patients

(a) Notwithstanding Section 650, or any other provision of law, it is unlawful for a licensee to refer a person for laboratory, diagnostic nuclear medicine, radiation oncology, physical therapy, physical rehabilitation, psychometric testing, home infusion therapy, or diagnostic imaging goods or services if the licensee or his or her immediate family has a financial interest with the person or in the entity that receives the referral.

(b) For purposes of this section and Section 650.02, the following shall apply:

(1) "Diagnostic imaging" includes, but is not limited to, all X-ray, computed axial tomography, magnetic resonance imaging nuclear medicine, positron emission tomography, mammography, and ultrasound goods and services.

(2) A "financial interest" includes, but is not limited to, any type of ownership interest, debt, loan, lease, compensation, remuneration, discount, rebate, refund, dividend, distribution, subsidy, or other form of direct or indirect payment, whether in money or otherwise, between a licensee and a person or entity to whom the licensee refers a person for a good or service specified in subdivision (a). A financial interest also exists if there is an indirect financial relationship between a licensee and the referral recipient including, but not limited to, an arrangement whereby a licensee has an ownership interest in an entity that leases property to the referral recipient. Any financial interest transferred by a licensee to any person or entity or otherwise established in any person or entity for the purpose of avoiding the prohibition of this section shall be deemed a financial interest of the licensee. For purposes of this paragraph, "direct or indirect payment" shall not include a royalty or consulting fee received by

a physician and surgeon who has completed a recognized residency training program in orthopedics from a manufacturer or distributor as a result of his or her research and development of medical devices and techniques for that manufacturer or distributor. For purposes of this paragraph, "consulting fees" means those fees paid by the manufacturer or distributor to a physician and surgeon who has completed a recognized residency training program in orthopedics only for his or her ongoing services in making refinements to his or her medical devices or techniques marketed or distributed by the manufacturer or distributor, if the manufacturer or distributor does not own or control the facility to which the physician is referring the patient.

A "financial interest" shall not include the receipt of capitation payments or other fixed amounts that are prepaid in exchange for a promise of a licensee to provide specified health care services to specified beneficiaries. A "financial interest" shall not include the receipt of remuneration by a medical director of a hospice, as defined in Section 1746 of the Health and Safety Code, for specified services if the arrangement is set out in writing, and specifies all services to be provided by the medical director, the term of the arrangement is for at least one year, and the compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between parties.

(3) For the purposes of this section, "immediate family" includes the spouse and children of the licensee, the parents of the licensee, and the spouses of the children of the licensee.

(4) "Licensee" means a physician as defined in Section 3209.3 of the Labor Code.

(5) "Licensee's office" means either of the following:

(A) An office of a licensee in solo practice.

(B) An office in which services or goods are personally provided by the licensee or by employees in that office, or personally by independent contractors in that office, in accordance with other provisions of law. Employees and independent contractors shall be licensed or certified when licensure or certification is required by law.

(6) "Office of a group practice" means an office or offices in which two or more licensees are legally organized as a partnership, professional corporation, or not-for-profit corporation, licensed pursuant to subdivision (a) of Section 1204 of the Health and Safety Code, for which all of the following apply:

(A) Each licensee who is a member of the group provides substantially the full range of services that the licensee routinely provides, including medical care, consultation, diagnosis, or treatment through the joint use of shared office space, facilities, equipment, and personnel.

(B) Substantially all of the services of the licensees who are members of the group are provided through the group and are billed in the name of the group and amounts so received are treated as receipts of the group, except in the case of a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code, physician services are billed in the name of the multispecialty clinic and amounts so received are treated as receipts of the multispecialty clinic.

(C) The overhead expenses of, and the income from, the practice are distributed in accordance with methods previously determined by members of the group.

(c) It is unlawful for a licensee to enter into an arrangement or scheme, such as a cross-referral arrangement, that the licensee knows, or should know, has a principal purpose of ensuring referrals by the licensee to a particular entity that, if the licensee directly made referrals to that entity, would be in violation of this section.

(d) No claim for payment shall be presented by an entity to any individual, third party payer, or other entity for a good or service furnished pursuant to a referral prohibited under this section.

(e) No insurer, self-insurer, or other payer shall pay a charge or lien for any good or service resulting from a referral in violation of this section.

(f) A licensee who refers a person to, or seeks consultation from, an organization in which the licensee has a financial interest, other than as prohibited by subdivision (a), shall disclose the financial interest to the patient, or the parent or legal guardian of the patient, in writing, at the time of the referral or request for consultation.

(1) If a referral, billing, or other solicitation is between one or more licensees who contract with a multispecialty clinic pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of this subdivision may be met by posting a conspicuous disclosure statement at the registration area or by providing a patient with a written disclosure statement.

(2) If a licensee is under contract with the Department of Corrections or the California Youth Authority, and the patient is an inmate or parolee of either respective department, the requirements of this subdivision shall be

satisfied by disclosing financial interests to either the Department of Corrections or the California Youth Authority.

(g) A violation of subdivision (a) shall be a misdemeanor. The Medical Board of California shall review the facts and circumstances of any conviction pursuant to subdivision (a) and take appropriate disciplinary action if the licensee has committed unprofessional conduct. Violations of this section may also be subject to civil penalties of up to five thousand dollars (\$5,000) for each offense, which may be enforced by the Insurance Commissioner, Attorney General, or a district attorney. A violation of subdivision (c), (d), or (e) is a public offense and is punishable upon conviction by a fine not exceeding fifteen thousand dollars (\$15,000) for each violation and appropriate disciplinary action, including revocation of professional licensure, by the Medical Board of California or other appropriate governmental agency.

(h) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(i) This section shall become operative on January 1, 1995.

650.02. Exemptions; referrals by financially interested licensees

The prohibition of Section 650.01 shall not apply to or restrict any of the following:

(a) A licensee may refer a patient for a good or service otherwise prohibited by subdivision (a) of Section 650.01 if the licensee's regular practice is located where there is no alternative provider of the service within either 25 miles or 40 minutes traveling time, via the shortest route on a paved road. If an alternative provider commences furnishing the good or service for which a patient was referred pursuant to this subdivision, the licensee shall cease referrals under this subdivision within six months of the time at which the licensee knew or should have known that the alternative provider is furnishing the good or service. A licensee who refers to or seeks consultation from an organization in which the licensee has a financial interest under this subdivision shall disclose this interest to the patient or the patient's parents or legal guardian in writing at the time of referral.

(b) A licensee, when the licensee or his or her immediate family has one or more of the following arrangements with another licensee, a person, or an entity, is not prohibited from referring a patient to the licensee, person, or entity because of the arrangement:

(1) A loan between a licensee and the recipient of the referral, if the loan has commercially reasonable terms, bears interest at the prime rate or a higher rate that does not constitute usury, is adequately secured, and the loan terms are not affected by either party's referral of any person or the volume of services provided by either party.

(2) A lease of space or equipment between a licensee and the recipient of the referral, if the lease is written, has commercially reasonable terms, has a fixed periodic rent payment, has a term of one year or more, and the lease payments are not affected by either party's referral of any person or the volume of services provided by either party.

(3) Ownership of corporate investment securities, including shares, bonds, or other debt instruments that may be purchased on terms generally available to the public and that are traded on a licensed securities exchange or NASDAQ, do not base profit distributions or other transfers of value on the licensee's referral of persons to the corporation, do not have a separate class or accounting for any persons or for any licensees who may refer persons to the corporation, and are in a corporation that had, at the end of the corporation's most recent fiscal year, or on average during the previous three fiscal years, stockholder equity exceeding seventy-five million dollars (\$75,000,000).

(4) Ownership of shares in a regulated investment company as defined in Section 851(a) of the federal Internal Revenue Code, if the company had, at the end of the company's most recent fiscal year, or on average during the previous three fiscal years, total assets exceeding seventy-five million dollars (\$75,000,000).

(5) A one-time sale or transfer of a practice or property or other financial interest between a licensee and the recipient of the referral if the sale or transfer is for commercially reasonable terms and the consideration is not affected by either party's referral of any person or the volume of services provided by either party.

(6) A personal services arrangement between a licensee or an immediate family member of the licensee and the recipient of the referral if the arrangement meets all of the following requirements:

(A) It is set out in writing and is signed by the parties.

(B) It specifies all of the services to be provided by the licensee or an immediate family member of the licensee.

(C) The aggregate services contracted for do not exceed those that are reasonable and necessary for the legitimate business purposes of the arrangement.

(D) A person who is referred by a licensee or an immediate family member of the licensee is informed in writing of the personal services arrangement that includes information on where a person may go to file a complaint against the licensee or the immediate family member of the licensee.

(E) The term of the arrangement is for at least one year.

(F) The compensation to be paid over the term of the arrangement is set in advance, does not exceed fair market value, and is not determined in a manner that takes into account the volume or value of any referrals or other business generated between the parties.

(G) The services to be performed under the arrangement do not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law.

(c) (1) A licensee may refer a person to a health facility, as defined in Section 1250 of the Health and Safety Code, or to any facility owned or leased by a health facility, if the recipient of the referral does not compensate the licensee for the patient referral, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b).

(2) Nothing shall preclude this subdivision from applying to a licensee solely because the licensee has an ownership or leasehold interest in an entire health facility or an entity that owns or leases an entire health facility.

(3) A licensee may refer a person to a health facility for any service classified as an emergency under subdivision (a) or (b) of Section 1317.1 of the Health and Safety Code.

(4) A licensee may refer a person to any organization that owns or leases a health facility licensed pursuant to subdivision (a), (b), or (f) of Section 1250 of the Health and Safety Code if the licensee is not compensated for the patient referral, the licensee does not receive any payment from the recipient of the referral that is based or determined on the number or value of any patient referrals, and any equipment lease arrangement between the licensee and the referral recipient complies with the requirements of paragraph (2) of subdivision (b). For purposes of this paragraph, the ownership may be through stock or membership, and may be represented by a parent holding company that solely owns or controls both the health facility organization and the affiliated organization.

(d) A licensee may refer a person to a nonprofit corporation that provides physician services pursuant to subdivision (l) of Section 1206 of the Health and Safety Code if the nonprofit corporation is controlled through membership by one or more health facilities or health facility systems and the amount of compensation or other transfer of funds from the health facility or nonprofit corporation to the licensee is fixed annually, except for adjustments caused by physicians joining or leaving the groups during the year, and is not based on the number of persons utilizing goods or services specified in Section 650.01.

(e) A licensee compensated or employed by a university may refer a person for a physician service, to any facility owned or operated by the university, or to another licensee employed by the university, provided that the facility or university does not compensate the referring licensee for the patient referral. In the case of a facility that is totally or partially owned by an entity other than the university, but that is staffed by university physicians, those physicians may not refer patients to the facility if the facility compensates the referring physicians for those referrals.

(f) The prohibition of Section 650.01 shall not apply to any service for a specific patient that is performed within, or goods that are supplied by, a licensee's office, or the office of a group practice. Further, the provisions of Section 650.01 shall not alter, limit, or expand a licensee's ability to deliver, or to direct or supervise the delivery of, in-office goods or services according to the laws, rules, and regulations governing his or her scope of practice.

(g) The prohibition of Section 650.01 shall not apply to cardiac rehabilitation services provided by a licensee or by a suitably trained individual under the direct or general supervision of a licensee, if the services are provided to patients meeting the criteria for Medicare reimbursement for the services.

(h) The prohibition of Section 650.01 shall not apply if a licensee is in the office of a group practice and refers a person for services or goods specified in Section 650.01 to a multispecialty clinic, as defined in subdivision (l) of Section 1206 of the Health and Safety Code.

(i) The prohibition of Section 650.01 shall not apply to health care services provided to an enrollee of a health care service plan licensed pursuant to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

(j) The prohibition of Section 650.01 shall not apply to a request by a pathologist for clinical diagnostic laboratory tests and pathological examination services, a request by a radiologist for diagnostic radiology services, or a request by a radiation oncologist for radiation therapy if those services are furnished by, or under the supervision of, the pathologist, radiologist, or radiation oncologist pursuant to a consultation requested by another physician.

(k) This section shall not apply to referrals for services that are described in and covered by Sections 139.3 and 139.31 of the Labor Code.

(l) This section shall become operative on January 1, 1995.

651. Public communication containing false, fraudulent, misleading, or deceptive statement or claim, prohibition, definitions; advertisements

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to disseminate or cause to be disseminated any form of public communication containing a false, fraudulent, misleading, or deceptive statement, claim, or image for the purpose of or likely to induce, directly or indirectly, the rendering of professional services or furnishing of products in connection with the professional practice or business for which he or she is licensed. A "public communication" as used in this section includes, but is not limited to, communication by means of mail, television, radio, motion picture, newspaper, book, list or directory of healing arts practitioners, Internet, or other electronic communication.

(b) A false, fraudulent, misleading, or deceptive statement, claim, or image includes a statement or claim that does any of the following:

(1) Contains a misrepresentation of fact.

(2) Is likely to mislead or deceive because of a failure to disclose material facts.

(3) (A) Is intended or is likely to create false or unjustified expectations of favorable results, including the use of any photograph or other image that does not accurately depict the results of the procedure being advertised or that has been altered in any manner from the image of the actual subject depicted in the photograph or image.

(B) Use of any photograph or other image of a model without clearly stating in a prominent location in easily readable type the fact that the photograph or image is of a model is a violation of subdivision (a). For purposes of this paragraph, a model is anyone other than an actual patient, who has undergone the procedure being advertised, of the licensee who is advertising for his or her services.

(C) Use of any photograph or other image of an actual patient that depicts or purports to depict the results of any procedure, or presents "before" and "after" views of a patient, without specifying in a prominent location in easily readable type size what procedures were performed on that patient is a violation of subdivision (a). Any "before" and "after" views (i) shall be comparable in presentation so that the results are not distorted by favorable poses, lighting, or other features of presentation, and (ii) shall contain a statement that the same "before" and "after" results may not occur for all patients.

(4) Relates to fees, other than a standard consultation fee or a range of fees for specific types of services, without fully and specifically disclosing all variables and other material factors.

(5) Contains other representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(6) Makes a claim either of professional superiority or of performing services in a superior manner, unless that claim is relevant to the service being performed and can be substantiated with objective scientific evidence.

(7) Makes a scientific claim that cannot be substantiated by reliable, peer reviewed, published scientific studies.

(8) Includes any statement, endorsement, or testimonial that is likely to mislead or deceive because of a failure to disclose material facts.

(c) Any price advertisement shall be exact, without the use of phrases, including, but not limited to, "as low as," "and up," "lowest prices," or words or phrases of similar import. Any advertisement that refers to services, or costs for services, and that uses words of comparison shall be based on verifiable data substantiating the comparison. Any person so advertising shall be prepared to provide information sufficient to establish the accuracy of that comparison. Price advertising shall not be fraudulent, deceitful, or misleading, including statements or advertisements of bait, discount, premiums, gifts, or any statements of a similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(d) Any person so licensed shall not compensate or give anything of value to a representative of the press, radio, television, or other communication medium in anticipation of, or in return for, professional publicity unless the fact of compensation is made known in that publicity.

(e) Any person so licensed may not use any professional card, professional announcement card, office sign, letterhead, telephone directory listing, medical list, medical directory listing, or a similar professional notice or device if it includes a statement or claim that is false, fraudulent, misleading, or deceptive within the meaning of subdivision (b).

(f) Any person so licensed who violates this section is guilty of a misdemeanor. A bona fide mistake of fact shall be a defense to this subdivision, but only to this subdivision.

(g) Any violation of this section by a person so licensed shall constitute good cause for revocation or suspension of his or her license or other disciplinary action.

(h) Advertising by any person so licensed may include the following:

(1) A statement of the name of the practitioner.

(2) A statement of addresses and telephone numbers of the offices maintained by the practitioner.

(3) A statement of office hours regularly maintained by the practitioner.

(4) A statement of languages, other than English, fluently spoken by the practitioner or a person in the practitioner's office.

(5) (A) A statement that the practitioner is certified by a private or public board or agency or a statement that the practitioner limits his or her practice to specific fields.

(6) A statement that the practitioner provides services under a specified private or public insurance plan or health care plan.

(7) A statement of names of schools and postgraduate clinical training programs from which the practitioner has graduated, together with the degrees received.

(8) A statement of publications authored by the practitioner.

(9) A statement of teaching positions currently or formerly held by the practitioner, together with pertinent dates.

(10) A statement of his or her affiliations with hospitals or clinics.

(11) A statement of the charges or fees for services or commodities offered by the practitioner.

(12) A statement that the practitioner regularly accepts installment payments of fees.

(13) Otherwise lawful images of a practitioner, his or her physical facilities, or of a commodity to be advertised.

(14) A statement of the manufacturer, designer, style, make, trade name, brand name, color, size, or type of commodities advertised.

(15) An advertisement of a registered dispensing optician may include statements in addition to those specified in paragraphs (1) to (14), inclusive, provided that any statement shall not violate subdivision (a), (b), (c), or (e) or any other section of this code.

(16) A statement, or statements, providing public health information encouraging preventative or corrective care.

(17) Any other item of factual information that is not false, fraudulent, misleading, or likely to deceive.

(i) Each of the healing arts boards and examining committees within Division 2 shall adopt appropriate regulations to enforce this section in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

Each of the healing arts boards and committees and examining committees within Division 2 shall, by regulation, define those efficacious services to be advertised by businesses or professions under their jurisdiction for the purpose of determining whether advertisements are false or misleading. Until a definition for that service has been issued, no advertisement for that service shall be disseminated. However, if a definition of a service has not been issued by a board or committee within 120 days of receipt of a request from a licensee, all those holding the license may advertise the service. Those boards and committees shall adopt or modify regulations defining what services may be advertised, the manner in which defined services may be advertised, and restricting advertising that would promote the inappropriate or excessive use of health services or commodities. A board or committee shall not, by regulation, unreasonably prevent truthful, nondeceptive price or otherwise lawful forms of advertising of services or commodities, by either outright prohibition or imposition of onerous disclosure requirements. However, any member of a board or committee acting in good faith in the adoption or enforcement of any regulation shall be deemed to be acting as an agent of the state.

(j) The Attorney General shall commence legal proceedings in the appropriate forum to enjoin advertisements disseminated or about to be disseminated in violation of this section and seek other appropriate

relief to enforce this section. Notwithstanding any other provision of law, the costs of enforcing this section to the respective licensing boards or committees may be awarded against any licensee found to be in violation of any provision of this section. This shall not diminish the power of district attorneys, county counsels, or city attorneys pursuant to existing law to seek appropriate relief.

654.2 Prohibited charges, billings, solicitations, or referrals; written disclosure of beneficial interests to patients or third-party payers; definitions; application of section

(a) It is unlawful for any person licensed under this division or under any initiative act referred to in this division to charge, bill, or otherwise solicit payment from a patient on behalf of, or refer a patient to, an organization in which the licensee, or the licensee's immediate family, has a significant beneficial interest, unless the licensee first discloses in writing to the patient, that there is such an interest and advises the patient that the patient may choose any organization for the purpose of obtaining the services ordered or requested by the licensee.

(b) The disclosure requirements of subdivision (a) may be met by posting a conspicuous sign in an area which is likely to be seen by all patients who use the facility or by providing those patients with a written disclosure statement. Where referrals, billings, or other solicitations are between licensees who contract with multispecialty clinics pursuant to subdivision (l) of Section 1206 of the Health and Safety Code or who conduct their practice as members of the same professional corporation or partnership, and the services are rendered on the same physical premises, or under the same professional corporation or partnership name, the requirements of subdivision (a) may be met by posting a conspicuous disclosure statement at a single location which is a common area or registration area or by providing those patients with a written disclosure statement.

(c) On and after July 1, 1987, persons licensed under this division or under any initiative act referred to in this division shall disclose in writing to any third-party payer for the patient, when requested by the payer, organizations in which the licensee, or any member of the licensee's immediate family, has a significant beneficial interest and to which patients are referred. The third-party payer shall not request this information from the provider more than once a year.

Nothing in this section shall be construed to serve as the sole basis for the denial or delay of payment of claims by third party payers.

(d) For the purposes of this section, the following terms have the following meanings:

(1) "Immediate family" includes the spouse and children of the licensee, the parents of the licensee and licensee's spouse, and the spouses of the children of the licensee.

(2) "Significant beneficial interest" means any financial interest that is equal to or greater than the lesser of the following:

(A) Five percent of the whole.

(B) Five thousand dollars (\$5,000).

(3) A third-party payer includes any health care service plan, self-insured employee welfare benefit plan, disability insurer, nonprofit hospital service plan, or private group or indemnification insurance program.

A third party payer does not include a prepaid capitated plan licensed under the Knox-Keene Health Care Service Plan Act of 1975 or Chapter 11a (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code.

(e) This section shall not apply to a "significant beneficial interest" which is limited to ownership of a building where the space is leased to the organization at the prevailing rate under a straight lease agreement or to any interest held in publicly traded stocks.

(f) (1) This section does not prohibit the acceptance of evaluation specimens for proficiency testing or referral of specimens or assignment from one clinical laboratory to another clinical laboratory, either licensed or exempt under this chapter, if the report indicates clearly the name of the laboratory performing the test.

(2) This section shall not apply to relationships governed by other provisions of this article nor is this section to be construed as permitting relationships or interests that are prohibited by existing law on the effective date of this section.

(3) The disclosure requirements of this section shall not be required to be given to any patient, customer, or his or her representative, if the licensee, organization, or entity is providing or arranging for health care services pursuant to a prepaid capitated contract with the State Department of Health Services.

657. Health or medical care claims; discounts by health care providers for prompt payment by third party payors

(a) The Legislature finds and declares all of the following:

(1) Californians spend more than one hundred billion dollars (\$100,000,000,000) annually on health care.

(2) In 1994, an estimated 6.6 million of California's 32 million residents did not have any health insurance and were ineligible for Medi-Cal.

(3) Many of California's uninsured cannot afford basic, preventative health care resulting in these residents relying on emergency rooms for urgent health care, thus driving up health care costs.

(4) Health care should be affordable and accessible to all Californians.

(5) The public interest dictates that uninsured Californians have access to basic, preventative health care at affordable prices.

(b) To encourage the prompt payment of health or medical care claims, health care providers are hereby expressly authorized to grant discounts in health or medical care claims when payment is made promptly within time limits prescribed by the health care providers or institutions rendering the service or treatment.

(c) Notwithstanding any provision in any health care service plan contract or insurance contract to the contrary, health care providers are hereby expressly authorized to grant discounts for health or medical care provided to any patient the health care provider has reasonable cause to believe is not eligible for, or is not entitled to, insurance reimbursement, coverage under the Medi-Cal program, or coverage by a health care service plan for the health or medical care provided. Any discounted fee granted pursuant to this section shall not be deemed to be the health care provider's usual, customary, or reasonable fee for any other purposes, including, but not limited to, any health care service plan contract or insurance contract.

(d) "Health care provider," as used in this section, means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code.

725. Excessive prescription or administration of drugs or treatment; diagnostic procedures; diagnostic or treatment facilities; misdemeanor; punishment

Repeated acts of clearly excessive prescribing or administering of drugs or treatment, repeated acts of clearly excessive use of diagnostic procedures, or repeated acts of clearly excessive use of diagnostic or treatment facilities as determined by the standard of the community of licensees is unprofessional conduct for a physician and surgeon, dentist, podiatrist, psychologist, physical therapist, chiropractor, or optometrist. However, pursuant to Section 2241.5, no physician and surgeon in compliance with the California Intractable Pain Treatment Act shall be subject to disciplinary action for lawfully prescribing or administering controlled substances in the course of treatment of a person for intractable pain.

Any person who engages in repeated acts of clearly excessive prescribing or administering of drugs or treatment is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) nor more than six hundred dollars (\$600), or by imprisonment for a term of not less than 60 days nor more than 180 days, or by both the fine and imprisonment.

810. Presentation of False or Fraudulent Claims for Payment

(a) It shall constitute unprofessional conduct and grounds for disciplinary action, including suspension or revocation of a license or certificate, for a health care professional to do any of the following in connection with his or her professional activities:

(1) Knowingly present or cause to be presented any false or fraudulent claim for the payment of a loss under a contract of insurance.

(2) Knowingly prepare, make, or subscribe any writing, with intent to present or use the same, or to allow it to be presented or used in support of any false or fraudulent claim.

(b) It shall constitute cause for revocation or suspension of a license or certificate for a health care professional to engage in any conduct prohibited under Section 1871.4 of the Insurance Code or Section 550 of the Penal Code.

(c) As used in this section, health care professional means any person licensed or certified pursuant to this division, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act.

1003. Law violators

(a) Except as otherwise allowed by law, the employment of runners, cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

(b) A licensee of the State Board of Chiropractic Examiners shall have his or her license to practice revoked for a period of 10 years upon a second conviction for violating any of the following provisions or upon being convicted of more than one count of violating any of the following provisions in a single case: Section 650 of this code, Section 750 or 1871.4 of the Insurance Code, or Section 549 or 550 of the Penal Code. After the expiration of this 10-year period, an application for license reinstatement may be made pursuant to subdivision (c) of Section 10 of the Chiropractic Act.

EXCERPT FROM THE CODE OF CIVIL PROCEDURE

1029.8. Unlicensed Persons and Professional Negligence Claims

(a) Any unlicensed person who causes injury or damage to another person as a result of providing goods or performing services for which a license is required under Division 2 (commencing with Section 500) or any initiative act referred to therein, Division 3 (commencing with Section 5000), or Chapter 2 (commencing with Section 18600) or Chapter 3 (commencing with Section 19000) of Division 8, of the Business and Professions Code, shall be liable to the injured person for treble the amount of damages assessed in a civil action in any court having proper jurisdiction. The court may, in its discretion, award all costs and attorney's fees to the injured person if that person prevails in the action.

(b) This section shall not be construed to confer an additional cause of action or to affect or limit any other remedy, including, but not limited to, a claim for exemplary damages.

(c) The additional damages provided for in subdivision (a) shall not exceed ten thousand dollars (\$10,000).

(d) For the purposes of this section, the term "unlicensed person" shall not apply to any of the following:

(1) Any person, partnership, corporation, or other entity providing goods or services under the good faith belief that they are properly licensed and acting within the proper scope of that licensure.

(2) Any person, partnership, corporation, or other entity whose license has expired for nonpayment of license renewal fees, but who is eligible to renew that license without the necessity of applying and qualifying for an original license.

(3) Any person, partnership, or corporation licensed under Chapter 6 (commencing with Section 2700) or Chapter 6.5 (commencing with Section 2840) of the Business and Professions Code, who provides professional nursing services under an existing license, if the action arises from a claim that the licensee exceeded the scope of practice authorized by his or her license.

(e) This section shall not apply to any action for unfair trade practices brought against an unlicensed person under Chapter 4 (commencing with Section 17000) of Part 2 of Division 7 of the Business and Professions Code, by a person who holds a license which is required, or closely related to the license which is required, to engage in those activities performed by the unlicensed person.

EXCERPT FROM THE EDUCATION CODE

48205. Excused School Absence

(a) Notwithstanding Section 48200, a pupil shall be excused from school when the absence is:

(1) Due to his or her illness.

(2) Due to quarantine under the direction of a county or city health officer.

(3) For the purpose of having medical, dental, optometrical, or chiropractic services rendered.

(4) For the purpose of attending the funeral services of a member of his or her immediate family, so long as the absence is not more than one day if the service is conducted in California and not more than three days if the service is conducted outside California.

(5) For the purpose of jury duty in the manner provided for by law.

(6) Due to the illness or medical appointment during school hours of a child of whom the pupil is the custodial parent.

(7) For justifiable personal reasons, including, but not limited to, an appearance in court, attendance at a funeral service, observance of a holiday or ceremony of his or her religion, attendance at religious retreats, or attendance at an employment conference, when the pupil's absence has been requested in writing by the parent or guardian and approved by the principal or a designated representative pursuant to uniform standards established by the governing board.

(8) For the purpose of serving as a member of a precinct board for an election pursuant to Section 12302 of the Elections Code.

(b) A pupil absent from school under this section shall be allowed to complete all assignments and tests missed during the absence that can be reasonably provided and, upon satisfactory completion within a reasonable period of time, shall be given full credit therefor. The teacher of any class from which a pupil is absent shall determine the tests and assignments shall be reasonably equivalent to, but not necessarily identical to, the tests and assignments that the pupil missed during the absence.

(c) For purposes of this section, attendance at religious retreats shall not exceed four hours per semester.

(d) Absences pursuant to this section are deemed to be absences in computing average daily attendance and shall not generate state apportionment payments.

(e) "Immediate family," as used in this section, has the same meaning as that set forth in Section 45194, except that references therein to "employee" shall be deemed to be references to "pupil."

EXCERPTS FROM THE HEALTH AND SAFETY CODE

123105. Definitions

As used in this chapter:

(a) "Health care provider" means any of the following:

(1) A health facility licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2.

(2) A clinic licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2.

(3) A home health agency licensed pursuant to Chapter 8 (commencing with Section 1725) of Division 2.

(4) A physician and surgeon licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code or pursuant to the Osteopathic Act.

(5) A podiatrist licensed pursuant to Article 22 (commencing with Section 2460) of Chapter 5 of Division 2 of the Business and Professions Code.

(6) A dentist licensed pursuant to Chapter 4 (commencing with Section 1600) of Division 2 of the Business and Professions Code.

(7) A psychologist licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code.

(8) An optometrist licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code.

(9) A chiropractor licensed pursuant to the Chiropractic Initiative Act.

(10) A marriage and family therapist licensed pursuant to Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code.

(11) A clinical social worker licensed pursuant to Chapter 14 (commencing with Section 4990) of Division 2 of the Business and Professions Code.

(12) A physical therapist licensed pursuant to Chapter 5.7 (commencing with Section 2600) of Division 2 of the Business and Professions Code.

(b) "Mental health records" means patient records, or discrete portions thereof, specifically relating to evaluation or treatment of a mental disorder. "Mental health records" includes, but is not limited to, all alcohol and drug abuse records.

(c) "Patient" means a patient or former patient of a health care provider.

(d) "Patient records" means records in any form or medium maintained by, or in the custody or control of, a health care provider relating to the health history, diagnosis, or condition of a patient, or relating to treatment provided or proposed to be provided to the patient. "Patient records" includes only records pertaining to the patient requesting the records or whose representative requests the records. "Patient records" does not include information given in confidence to a health care provider by a person other than another health care provider or the patient, and that material may be removed from any records prior to inspection or copying under Section 123110 or 123115. "Patient records" does not include information contained in aggregate form, such as indices, registers, or logs.

(e) "Patient's representative" or "representative" means a parent or the guardian of a minor who is a patient, or the guardian or conservator of the person of an adult patient, or the beneficiary or personal representative of a deceased patient.

(f) "Alcohol and drug abuse records" means patient records, or discrete portions thereof, specifically relating to evaluation and treatment of alcoholism or drug abuse.

123110. Patient Records

(a) Notwithstanding Section 5328 of the Welfare and Institutions Code, and except as provided in Sections 123115 and 123120, any adult patient of a health care provider, any minor patient authorized by law to

consent to medical treatment, and any patient representative shall be entitled to inspect patient records upon presenting to the health care provider a written request for those records and upon payment of reasonable clerical costs incurred in locating and making the records available. However, a patient who is a minor shall be entitled to inspect patient records pertaining only to health care of a type for which the minor is lawfully authorized to consent. A health care provider shall permit this inspection during business hours within five working days after receipt of the written request. The inspection shall be conducted by the patient or patient's representative requesting the inspection, who may be accompanied by one other person of his or her choosing.

(b) Additionally, any patient or patient's representative shall be entitled to copies of all or any portion of the patient records that he or she has a right to inspect, upon presenting a written request to the health care provider specifying the records to be copied, together with a fee to defray the cost of copying, that shall not exceed twenty-five cents (\$0.25) per page or fifty cents (\$0.50) per page for records that are copied from microfilm and any additional reasonable clerical costs incurred in making the records available. The health care provider shall ensure that the copies are transmitted within 15 days after receiving the written request.

(c) Copies of X-rays or tracings derived from electrocardiography, electroencephalography, or electromyography need not be provided to the patient or patient's representative under this section, if the original X-rays or tracings are transmitted to another health care provider upon written request of the patient or patient's representative and within 15 days after receipt of the request. The request shall specify the name and address of the health care provider to whom the records are to be delivered. All reasonable costs, not exceeding actual costs, incurred by a health care provider in providing copies pursuant to this subdivision may be charged to the patient or representative requesting the copies.

(d) (1) Notwithstanding any provision of this section, and except as provided in Sections 123115 and 123120, any patient or former patient or the patient's representative shall be entitled to a copy, at no charge, of the relevant portion of the patient's records, upon presenting to the provider a written request, and proof that the records are needed to support an appeal regarding eligibility for a public benefit program. These programs shall be the Medi-Cal program, social security disability insurance benefits, and Supplemental Security Income/State Supplementary Program for the Aged, Blind and Disabled (SSI/SSP) benefits. For purposes of this subdivision, "relevant portion of the patient's records" means those records regarding services rendered to the patient during the time period beginning with the date of the patient's initial application for public benefits up to and including the date that a final determination is made by the public benefits program with which the patient's application is pending.

(2) Although a patient shall not be limited to a single request, the patient or patient's representative shall be entitled to no more than one copy of any relevant portion of his or her record free of charge.

(3) This subdivision shall not apply to any patient who is represented by a private attorney who is paying for the costs related to the patient's appeal, pending the outcome of that appeal. For purposes of this subdivision, "private attorney" means any attorney not employed by a nonprofit legal services entity.

(e) If the patient's appeal regarding eligibility for a public benefit program specified in subdivision (d) is successful, the hospital or other health care provider may bill the patient, at the rates specified in subdivisions (b) and (c), for the copies of the medical records previously provided free of charge.

(f) If a patient or his or her representative requests a record pursuant to subdivision (d), the health care provider shall ensure that the copies are transmitted within 30 days after receiving the written request.

(g) This section shall not be construed to preclude a health care provider from requiring reasonable verification of identity prior to permitting inspection or copying of patient records, provided this requirement is not used oppressively or discriminatorily to frustrate or delay compliance with this section. Nothing in this chapter shall be deemed to supersede any rights that a patient or representative might otherwise have or exercise under Section 1158 of the Evidence Code or any other provision of law. Nothing in this chapter shall require a health care provider to retain records longer than required by applicable statutes or administrative regulations.

(h) This chapter shall not be construed to render a health care provider liable for the quality of his or her records or the copies provided in excess of existing law and regulations with respect to the quality of medical records. A health care provider shall not be liable to the patient or any other person for any consequences that result from disclosure of patient records as required by this chapter. A health care provider shall not

discriminate against classes or categories of providers in the transmittal of X-rays or other patient records, or copies of these X-rays or records, to other providers as authorized by this section.

Every health care provider shall adopt policies and establish procedures for the uniform transmittal of X-rays and other patient records that effectively prevent the discrimination described in this subdivision. A health care provider may establish reasonable conditions, including a reasonable deposit fee, to ensure the return of original X-rays transmitted to another health care provider, provided the conditions do not discriminate on the basis of, or in a manner related to, the license of the provider to which the X-rays are transmitted.

(i) Any health care provider described in paragraphs (4) to (10), inclusive, of subdivision (a) of Section 123105 who willfully violates this chapter is guilty of unprofessional conduct. Any health care provider described in paragraphs (1) to (3), inclusive, of subdivision (a) of Section 123105 that willfully violates this chapter is guilty of an infraction punishable by a fine of not more than one hundred dollars (\$100). The state agency, board, or commission that issued the health care provider's professional or institutional license shall consider a violation as grounds for disciplinary action with respect to the licensure, including suspension or revocation of the license or certificate.

(j) This section shall be construed as prohibiting a health care provider from withholding patient records or summaries of patient records because of an unpaid bill for health care services. Any health care provider who willfully withholds patient records or summaries of patient records because of an unpaid bill for health care services shall be subject to the sanctions specified in subdivision (i).

123115. Minor's Patient Records

(a) The representative of a minor shall not be entitled to inspect or obtain copies of the minor's patient records in either of the following circumstances:

(1) With respect to which the minor has a right of inspection under Section 123110.

(2) Where the health care provider determines that access to the detrimental effect on the provider's professional relationship with the minor patient or the minor's physical safety or psychological well-being. The decision of the health care provider as to whether or not a minor's records are available for inspection under this section shall not attach any liability to the provider, unless the decision is found to be in bad faith.

(b) When a health care provider determines there is a substantial risk of significant adverse or detrimental consequences to a patient in seeing or receiving a copy of mental health records requested by the patient, the provider may decline to permit inspection or provide copies of the records to the patient, subject to the following conditions:

(1) The health care provider shall make a written record, to be included with the mental health records requested, noting the date of the request and explaining the health care provider's reason for refusing to permit inspection or provide copies of the records, including a description of the specific adverse or detrimental consequences to the patient that the provider anticipates would occur if inspection or copying were permitted.

(2) The health care provider shall permit inspection by, or provide copies of the mental health records to, a licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, or licensed clinical social worker, designated by request of the patient. Any marriage and family therapist registered intern, as defined in Chapter 13 (commencing with Section 4980) of Division 2 of the Business and Professions Code, may not inspect the patient's mental health records or obtain copies thereof, except pursuant to the direction or supervision of a licensed professional specified in subdivision (f) of Section 4980.40 of the Business and Professions Code. Prior to providing copies of mental health records to a marriage and family therapist registered intern, a receipt for those records shall be signed by the supervising licensed professional. The licensed physician and surgeon, licensed psychologist, licensed marriage and family therapist, licensed clinical social worker, or marriage and family therapist registered intern to whom the records are provided for inspection or copying shall not permit inspection or copying by the patient.

(3) The health care provider shall inform the patient of the provider's refusal to permit him or her to inspect or obtain copies of the requested records, and inform the patient of the right to require the provider to permit inspection by, or provide copies to, a licensed physician and surgeon, licensed psychologist, licensed

marriage and family therapist, or licensed clinical social worker, designated by written authorization of the patient.

(4) The health care provider shall indicate in the mental health records of the patient whether the request was made under paragraph (2).

123125.Patient Records

(a) This chapter shall not require a health care provider to permit inspection or provide copies of alcohol and drug abuse records where, or in a manner, prohibited by Section 408 of the federal Drug Abuse Office and Treatment Act of 1972 (Public Law 92-255) or Section 333 of the federal Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (Public Law 91-616), or by regulations adopted pursuant to these federal laws. Alcohol and drug abuse records subject to these federal laws shall also be subject to this chapter, to the extent that these federal laws do not prohibit disclosure of the records. All other alcohol and drug abuse records shall be fully subject to this chapter.

(b) This chapter shall not require a health care provider to permit inspection or provide copies of records or portions of records where or in a manner prohibited by existing law respecting the confidentiality of information regarding communicable disease carriers.

123148.Patient Records

(a) Notwithstanding any other provision of law, a health care professional at whose request a test is performed shall provide or arrange for the provision of the results of a clinical laboratory test to the patient who is the subject of the test if so requested by the patient, in oral or written form. The results shall be conveyed in plain language and in oral or written form, except the results may be conveyed in electronic form if requested by the patient and if deemed most appropriate by the health care professional who requested the test.

(b) (1) Consent of the patient to receive his or her laboratory results by Internet posting or other electronic means shall be obtained in a manner consistent with the requirements of Section 56.10 or 56.11 of the Civil Code. In the event that a health care professional arranges for the provision of test results by Internet posting or other electronic manner, the results shall be delivered to a patient in a reasonable time period, but only after the results have been reviewed by the health care professional. Access to clinical laboratory test results shall be restricted by the use of a secure personal identification number when the results are delivered to a patient by Internet posting or other electronic manner.

(2) Nothing in paragraph (1) shall prohibit direct communication by Internet posting or the use of other electronic means to convey clinical laboratory test results by a treating health care professional who ordered the test for his or her patient or by a health care professional acting on behalf of, or with the authorization of, the treating health care professional who ordered the test.

(c) When a patient requests to receive his or her laboratory test results by Internet posting, the health care professional shall advise the patient of any charges that may be assessed directly to the patient or insurer for the service and that the patient may call the health care professional for a more detailed explanation of the laboratory test results when delivered.

(d) The electronic provision of test results under this section shall be in accordance with any applicable federal law governing privacy and security of electronic personal health records. However, any state statute, if enacted, that governs privacy and security of electronic personal health records, shall apply to test results under this section and shall prevail over federal law if federal law permits.

(e) The test results to be reported to the patient pursuant to this section shall be recorded in the patient's medical record, and shall be reported to the patient within a reasonable time period after the test results are received at the offices of the health care professional who requested the test.

(f) Notwithstanding subdivisions (a) and (b), none of the following clinical laboratory test results and any other related results shall be conveyed to a patient by Internet posting or other electronic means:

(1) HIV antibody test.

(2) Presence of antigens indicating a hepatitis infection.

(3) Abusing the use of drugs.

(4) Test results related to routinely processed tissues, including skin biopsies, Pap smear tests, products of conception, and bone marrow aspirations for morphological evaluation, if they reveal a malignancy.

(g) Patient identifiable test results and health information that have been provided under this section shall not be used for any commercial purpose without the consent of the patient, obtained in manner consistent with the requirements of Section 56.11 of the Civil Code.

(h) Any third party to whom laboratory test results are disclosed pursuant to this section shall be deemed a provider of administrative services, as that term is used in paragraph (3) of subdivision (c) of Section 56.10 of the Civil Code, and shall be subject to all limitations and penalties applicable to that section.

(i) A patient may not be required to pay any cost, or be charged any fee, for electing to receive his or her laboratory results in any manner other than by Internet posting or other electronic form.

(j) A patient or his or her physician may revoke any consent provided under this section at any time and without penalty, except to the extent that action has been taken in reliance on that consent.

EXCERPTS FROM THE PENAL CODE

11165. Definition

As used in this article "child" means a person under the age of 18 years.

11165.2. Pertinent Definitions

As used in this article, "neglect" means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person.

(a) "Severe neglect" means the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive. "Severe neglect" also means those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

(b) "General neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.

For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16509.1 of the Welfare and Institutions Code or not receiving specified medical treatment for religious reasons, shall not for that reason alone be considered a neglected child. An informed and appropriate medical decision made by parent or guardian after consultation with a physician or physicians who have examined the minor does not constitute neglect.

11165.3. Willful cruelty or unjustifiable punishment of a child

As used in this article, "willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered.

11165.7. Mandated Reporters

(a) As used in this article, "mandated reporter" is defined as any of the following:

- (1) A teacher.
- (2) An instructional aide.
- (3) A teacher's aide or teacher's assistant employed by any public or private school.
- (4) A classified employee of any public school.
- (5) An administrative officer or supervisor of child welfare and attendance, or a certificated pupil personnel employee of any public or private school.
- (6) An administrator of a public or private day camp.
- (7) An administrator or employee of a public or private youth center, youth recreation program, or youth organization.
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children.

- (9) Any employee of a county office of education or the California Department of Education, whose duties bring the employee into contact with children on a regular basis.
- (10) A licensee, an administrator, or an employee of a licensed community care or child day care facility.
- (11) A headstart teacher.
- (12) A licensing worker or licensing evaluator employed by a licensing agency as defined in Section 11165.11.
- (13) A public assistance worker.
- (14) An employee of a child care institution, including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities.
- (15) A social worker, probation officer, or parole officer.
- (16) An employee of a school district police or security department.
- (17) Any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school.
- (18) A district attorney investigator, inspector, or local child support agency caseworker unless the investigator, inspector, or caseworker is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor.
- (19) A peace officer, as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, who is not otherwise described in this section.
- (20) A firefighter, except for volunteer firefighters.
- (21) A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.
- (22) Any emergency medical technician I or II, paramedic, or other person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code.
- (23) A psychological assistant registered pursuant to Section 2913 of the Business and Professions Code.
- (24) A marriage, family and child therapist trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code.
- (25) An unlicensed marriage, family, and child therapist intern registered under Section 4980.44 of the Business and Professions Code.
- (26) A state or county public health employee who treats a minor for venereal disease or any other condition.
- (27) A coroner.
- (28) A medical examiner, or any other person who performs autopsies.
- (29) A commercial film and photographic print processor, as specified in subdivision (e) of Section 11166. As used in this article, "commercial film and photographic print processor" means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such a person; it does not include a person who develops film or makes prints for a public agency.
- (30) A child visitation monitor. As used in this article, "child visitation monitor" means any person who, for financial compensation, acts as monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law.
- (31) An animal control officer or humane society officer. For the purposes of this article, the following terms have the following meanings:
- (A) "Animal control officer" means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations.
- (B) "Humane society officer" means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Section 14502 or 14503 of the Corporation Code.
- (32) A clergy member, as specified in subdivision (c) of Section 11166. As used in this article, "clergy member" means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

(33) Any custodian of records of a clergy member, as specified in this section and subdivision (c) of Section 11166.

(34) Any employee of any police department, county sheriff's department, county probation department, or county welfare department.

(35) An employee or volunteer of a Court Appointed Special Advocate program, as defined in Rule 1424 of the Rules of Court.

(b) Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse.

(c) Training in the duties imposed by this article shall include training in child abuse identification and training in child abuse reporting. As part of that training, school districts shall provide to all employees being trained a written copy of the reporting requirements and a written disclosure of the employees' confidentiality rights.

(d) School districts that do not train their employees specified in subdivision (a) in the duties of mandated reporters under the child abuse reporting laws shall report to the State Department of Education the reasons why this training is not provided.

(e) The absence of training shall not excuse a mandated reporter from the duties imposed by this article.

11165.9. Mandated Reporting

Reports of suspected child abuse or neglect shall be made by mandated reporters to any police department or sheriff's department, not including a school district police or security department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspected child abuse or neglect whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

EXCERPT FROM THE VEHICLE CODE

5007. Certificates for disabled license plates

(a) The department shall, upon application and without additional fees, issue a special identification license plate or plates to a disabled person or disabled veteran, pursuant to procedures adopted by the department.

(b) The special identification plates issued to a disabled person or disabled veteran shall run in a regular numerical series which shall include one or more unique two-letter codes reserved for disabled person license plates or disabled veteran license plates. The International Symbol of Access adopted pursuant to Section 3 of Public Law 100-641 commonly known as the "wheelchair symbol" shall be depicted on each plate.

(c) (1) Prior to issuing any disabled person or disabled veteran a special identification license plate, the department shall require the submission of a certificate, in accordance with paragraph (2), signed by the physician or surgeon substantiating the disability, unless the applicant's disability is readily observable and uncontested. The disability of any person who has lost, or has lost use of, one or more lower extremities or both hands, or who has significant limitation in the use of lower extremities, may also be certified by a licensed chiropractor. The blindness of any applicant shall be certified by a licensed physician or surgeon who specializes in diseases of the eye or a licensed optometrist.

(2) The physician or other person who signs a certificate submitted under this subdivision shall retain information sufficient to substantiate that certificate and, upon request of the department, shall make that information available for inspection by the Medical Board of California.

(d) The special identification license plate shall, upon the death of the disabled person or disabled veteran, be returned to the department within 60 days or upon the expiration of the vehicle registration, whichever occurs first.

EXCERPTS FROM THE WELFARE AND INSTITUTIONS CODE

15610.27. "Elder" means any person residing in this state, 65 years of age or older.

15610.37. "Health practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, licensed clinical social worker or associate clinical social worker, marriage, family, and child counselor, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician I or II, paramedic, or person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family, and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, or an unlicensed marriage, family, and child counselor intern registered under Section 4980.44 of the Business and Professions Code, state or county public health or social service employee who treats an elder or a dependent adult for any condition, or a coroner.

15630. (a) Any person who has assumed full or intermittent responsibility for care or custody of an elder or dependent adult, whether or not that person receives compensation, including administrators, supervisors, and any licensed staff of a public or private facility that provides care or services for elder or dependent adults, or any elder or dependent adult care custodian, health practitioner, clergy member, or employee of a county adult protective services agency or a local law enforcement agency, is a mandated reporter.

(b) (1) Any mandated reporter who, in his or her professional capacity, or within the scope of his or her employment, has observed or has knowledge of an incident that reasonably appears to be physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or is told by an elder or dependent adult that he or she has experienced behavior, including an act or omission, constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect, or reasonably suspects that abuse, shall report the known or suspected instance of abuse by telephone immediately or as soon as practicable possible, and by written report sent within two working days, as follows:

(A) If the abuse has occurred in a long-term care facility, except a state mental health hospital or a state developmental center, the report shall be made to the local ombudsman or the local law enforcement agency.

Except in an emergency, the local ombudsman and the local law enforcement agency shall, as soon as practicable, do all of the following:

(i) Report to the State Department of Health Services any case of known or suspected abuse occurring in a long-term health care facility, as defined in subdivision (a) of Section 1418 of the Health and Safety Code.

(ii) Report to the State Department of Social Services any case of known or suspected abuse occurring in a residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or in an adult day care facility, as defined in paragraph (2) of subdivision (a) of Section 1502.

(iii) Report to the State Department of Health Services and the California Department of Aging any case of known or suspected abuse occurring in an adult day health care center, as defined in subdivision (b) of Section 1570.7 of the Health and Safety Code.

(iv) Report to the Bureau of Medi-Cal Fraud and Elder Abuse any case of known or suspected criminal activity.

(B) If the suspected or alleged abuse occurred in a state mental hospital or a state developmental center, the report shall be made to designated investigators of the State Department of Mental Health or the State Department of Developmental Services, or to the local law enforcement agency.

Except in an emergency, the local law enforcement agency shall, as soon as practicable, report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse.

(C) If the abuse has occurred any place other than one described in subparagraph (A), the report shall be made to the adult protective services agency or the local law enforcement agency.

(2) (A) A mandated reporter who is a clergy member who acquires knowledge or reasonable suspicion of elder or dependent adult abuse during a penitential communication is not subject to paragraph (1). For purposes of this subdivision, "penitential communication" means a communication that is intended to be in confidence, including, but not limited to, a sacramental confession made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization is authorized or accustomed to hear those communications and under the discipline tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret.

(B) Nothing in this subdivision shall be construed to modify or limit a clergy member's duty to report known or suspected elder and dependent adult abuse when he or she is acting in the capacity of a care custodian, health practitioner, or employee of an adult protective agency.

(C) Notwithstanding any other provision in this section, a clergy member who is not regularly employed on either a full-time or part-time basis in a long-term care facility or does not have care or custody of an elder or dependent adult shall not be responsible for reporting abuse or neglect that is not reasonably observable or discernible to a reasonably prudent person having no specialized training or experience in elder or dependent care.

(3) (A) A mandated reporter who is a physician and surgeon, a registered nurse, or a psychotherapist, as defined in Section 1010 of the Evidence Code, shall not be required to report, pursuant to paragraph (1), an incident where all of the following conditions exist:

(i) The mandated reporter has been told by an elder or dependent adult that he or she has experienced behavior constituting physical abuse, abandonment, abduction, isolation, financial abuse, or neglect.

(ii) The mandated reporter is not aware of any independent evidence that corroborates the statement that the abuse has occurred.

(iii) The elder or dependent adult has been diagnosed with a mental illness or dementia, or is the subject of a court-ordered conservatorship because of a mental illness or dementia.

(iv) In the exercise of clinical judgment, the physician and surgeon, the registered nurse, or the psychotherapist, as defined in Section 1010 of the Evidence Code, reasonably believes that the abuse did not occur.

(B) This paragraph shall not be construed to impose upon mandated reporters a duty to investigate a known or suspected incident of abuse and shall not be construed to lessen or restrict any existing duty of mandated reporters.

(4) (A) In a long-term care facility, a mandated reporter shall not be required to report as a suspected incident of abuse, as defined in Section 15610.07, an incident where all of the following conditions exist:

(i) The mandated reporter is aware that there is a proper plan of care.

(ii) The mandated reporter is aware that the plan of care was properly provided or executed.

(iii) A physical, mental, or medical injury occurred as a result of care provided pursuant to clause (i) or (ii).

(iv) The mandated reporter reasonably believes that the injury was not the result of abuse.

(B) This paragraph shall not be construed to require a mandated reporter to seek, nor to preclude a mandated reporter from seeking, information regarding a known or suspected incident of abuse prior to reporting. This paragraph shall apply only to those categories of mandated reporters that the State Department of Health Services determines, upon approval by the Bureau of Medi-Cal Fraud and Elder Abuse and the state long-term care ombudsman, have access to plans of care and have the training and experience necessary to determine whether the conditions specified in this section have been met.

(c) (1) Any mandated reporter who has knowledge, or reasonably suspects, that types of elder or dependent adult abuse for which reports are not mandated have been inflicted upon an elder or dependent adult, or that his or her emotional well-being is endangered in any other way, may report the known or suspected instance of abuse.

(2) If the suspected or alleged abuse occurred in a long-term care facility other than a state mental health hospital or a state developmental center, the report may be made to the long-term care ombudsman program. Except in an emergency, the local ombudsman shall report any case of known or suspected abuse to the State Department of Health Services and any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(3) If the suspected or alleged abuse occurred in a state mental health hospital or a state developmental center, the report may be made to the designated investigator of the State Department of Mental Health or the State Department of Developmental Services or to a local law enforcement agency or to the local ombudsman. Except in an emergency, the local ombudsman and the local law enforcement agency shall report any case of known or suspected criminal activity to the Bureau of Medi-Cal Fraud and Elder Abuse, as soon as is practicable.

(4) If the suspected or alleged abuse occurred in a place other than a place described in paragraph (2) or (3), the report may be made to the county adult protective services agency.

(5) If the conduct involves criminal activity not covered in subdivision (b), it may be immediately reported to the appropriate law enforcement agency.

(d) When two or more mandated reporters are present and jointly have knowledge or reasonably suspect that types of abuse of an elder or a dependent adult for which a report is or is not mandated have occurred, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement, and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report.

(e) A telephone report of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other person responsible for the elder or dependent adult's care, the nature and extent of the elder or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report.

(f) The reporting duties under this section are individual, and no supervisor or administrator shall impede or inhibit the reporting duties, and no person making the report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting, ensure confidentiality, and apprise supervisors and administrators of reports may be established, provided they are not inconsistent with this chapter.

(g) (1) Whenever this section requires a county adult protective services agency to report to a law enforcement agency, the law enforcement agency shall, immediately upon request, provide a copy of its investigative report concerning the reported matter to that county adult protective services agency.

(2) Whenever this section requires a law enforcement agency to report to a county adult protective services agency, the county adult protective services agency shall, immediately upon request, provide to that law enforcement agency a copy of its investigative report concerning the reported matter.

(3) The requirement to disclose investigative reports pursuant to this subdivision shall not include the disclosure of social services records or case files that are confidential, nor shall this subdivision be construed to allow disclosure of any reports or records if the disclosure would be prohibited by any other provision of state or federal law.

(h) Failure to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, is a misdemeanor, punishable by not more than six months in the county jail, by a fine of not more than one thousand dollars (\$1,000), or by both that fine and imprisonment. Any mandated reporter who willfully fails to report physical abuse, abandonment, abduction, isolation, financial abuse, or neglect of an elder or dependent adult, in violation of this section, where that abuse results in death or great bodily injury, shall be punished by not more than one year in a county jail, by a fine of not more than five thousand dollars (\$5,000), or by both that fine and imprisonment.